

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO

King Lincoln Bronzerville Neighborhood Association, et al.

Case No. 2:06-CV-00745

Plaintiff,

v.

Judge Marbley  
Magistrate Judge Kemp

Ohio Secretary of State Kenneth Blackwell, et al.

Defendant.

**PLAINTIFFS’ MEMORANDUM CONTRA OHIO CHAMBER OF COMMERCE AND  
PARTNERSHIP FOR OHIO’S FUTURE MOTION TO QUASH SUBPOENAS, AND  
REQUEST FOR AN EMERGENCY ORDER COMPELLING THE IMMEDIATE  
PRODUCTION OF THE REQUESTED INFORMATION**

Pursuant to the authority of this court’s order of September 19, 2008 (Document 65) authorizing such further depositions as may be warranted in the judgment of the plaintiffs and the defendant Ohio Secretary of State Jennifer Brunner in the aftermath of the deposition of Michael Connell,

And pursuant to the publicly announced directive of Ohio Secretary of State Jennifer Brunner, in the presence of Ohio Attorney General Nancy Rogers and trial counsel Richard Coglianese that matters addressing fraud in a current election should be addressed directly to Ohio Secretary of State Jennifer Brunner,

Plaintiffs’ trial counsel requested and, first thing in the morning of November 1, 2010, obtained agreement and authorization from Ohio Secretary of State Jennifer Brunner to issue subpoenas to the Chamber of Commerce as ancillary to the deposition subpoena authorized, issued and served

upon Karl Rove on October 24, 2010.

At a hearing before the Ohio Elections Commission of a complaint filed by plaintiffs' trial counsel against Partnership for Ohio's Future which has made \$1.45 million dollars on TV air time of two Republican candidates, Justice Maureen O'Connor and Justice Judith Lanzinger, for the Ohio Supreme Court. Bradley Smith as counsel for Partnership for Ohio's Future in rebuttal stated that:

“the Partnership for Ohio's Future is making its donors available. As you know, it's not required by Ohio law, but we made them available to anybody who's asked. Mr. Arnebeck doesn't need a subpoena; will be happy to give them the list if he asks.”

See Attachment A, page 4: Certified transcript of an excerpt of the probable cause panel hearing before the Ohio elections commission in Arnebeck v. Partnership for Ohio's Future, Case No. 2010 E – 122.

In an article in the Free Press.org King Lincoln plaintiffs' co-counsel Robert Fitrakis, who was present during the hearing before the Ohio Elections Commission in this matter and King Lincoln co-plaintiff Harvey Wasserman, these journalists state that:

Brad Smith, the Chamber's Chief Counsel, promised in front of the Ohio Elections Commission, that the Chamber would produce the names of the donors it has failed to disclose this year.

In his “ten-second rebuttal” before the Election Commission's probable cause panel, Smith complained that Arnebeck never asked him for the list.

In the hall after the hearing, Linda Woggan, the Chambers Vice President for Governmental Affairs, promised Arnebeck that she would provide the list of secret donors as well.

Arnebeck specifically asked for the list in electronic form so it can be disseminated to the media prior to election Day.

In the wake of Smith's promise, the commission voted 3 to 1 to deny Arnebeck's probable cause motion demanding that list. . . .

When this information was not delivered in due course subsequent to the hearing before the Ohio Elections Commission, plaintiffs' trial counsel prepared and served subpoenas upon Partnership for Ohio's Future and the Ohio Chamber of Commerce to secure this information so that it could be made available to the public before the election of November 2, 2010.

The subpoenas that had been served at 11:30 a.m. commanded performance by 2 p.m., November 1, 2010. At approximately 1:30 p.m. Chamber's counsel Bradley Smith called to advise that he was working on material in an effort to produce it by 2 p.m., but that in any case it would be produced by 3 p.m.

At approximately 3:30 p.m. a courier arrived at plaintiffs' trial counsel's office and delivered a package containing, not the list of contributors that had been promised but rather the respondents' Motion to Quash Subpoena to Produce Documents, Information, or Objects.

The immediate production of the requested materials in electronic format is fully consistent with the free speech regime that included direct independent expenditures out of corporate treasuries envisioned by Justice Kennedy on behalf of the majority in the case of *Citizens United v. Federal Elections Commission* an essential component of which was immediate disclosure of contributions.

Furthermore, the immediate production of this information is necessary to protect some portion of the voting public from the impending effect of unprecedented flow of political commercials the source of which has been camouflaged. As a result of this subterfuge the public is being denied the opportunity to consider the source and recognize the special interests behind such advertising.

The relevance of this information sought by the plaintiffs is for the purpose of aiding in the examination of Karl Rove in his deposition noticed for November 29, 2010 and inquiry as to the extent of Mr. Rove's orchestration on behalf of the national Republican coordinated campaign to maximize its influence and control of the federal and state governments through the coordinated expenditure of funds provided by the Chamber of Commerce and other groups working under the guidance of Tom Donohue, the President and CEO of the United States Chamber of Commerce.

The subject of the present discovery is to understand the current manifestation of the ongoing under the Ohio Corrupt Practices Act with respect to which plaintiffs' trial counsel has previously issued document hold notices to the Ohio Chamber of Commerce, the United States Chamber of Commerce, and the United States Department of Justice with respect to the White House e-mails of Karl Rove.

Respectfully submitted,

*/s/Clifford O. Arnebeck, Jr.*

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Clifford O. Arnebeck, Jr. (0033391)

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**VERIFICATION WITH RESPECT TO STATEMENTS OF FACT IN THE  
FOREGOING MEMORANDUM**

I declare under penalties of perjury that the statements of fact attributed to plaintiff's trial counsel contained in the foregoing memorandum are true and correct to the best of my knowledge and belief.

*/s/Clifford O. Arnebeck, Jr.*

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Clifford O. Arnebeck Jr. (0033391)

**CERTIFICATE OF SERVICE**

A copy of the foregoing was served upon counsel for the parties and respondents through the court's electronic filing system, this 2nd day of November 2010.

*/s/Clifford O. Arnebeck, Jr.*

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Clifford O. Arnebeck Jr. (0033391)