

Newspaper's attorneys file motion to stop subpoena

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LOGAN — Attorneys for The Logan Daily News have filed a motion with the Hocking County Common Pleas Court to quash a subpoena that the newspaper received in conjunction with the retrial of Melanie Ogle.

The newspaper was served with a subpoena last month issued by Assistant Prosecutor William Archer Jr. seeking the newspaper's subscriber list in order to impeach prospective jurors in the case, and seeking any other information "which [it] may have on said individuals which may aid in the investigation."

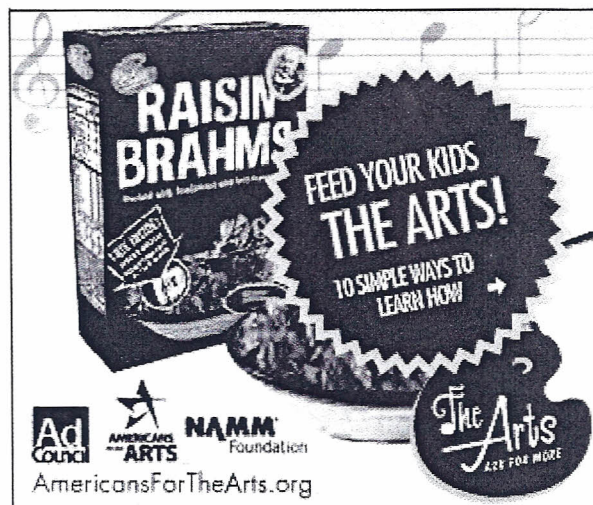
Ogle is charged with assaulting a sheriff's deputy (a fourth-degree felony); her first trial in August was declared a mistrial.

The State filed two motions for change of venue throughout the course of the case — based on pretrial publicity — both of which were overruled.

Last week, Jonathan K. Stock — attorney for American Consolidated Media Ohio, LLC, which owns The Logan Daily News — filed a motion to quash the subpoena, requesting visiting Judge James Luse rule that the newspaper does not have to comply. The motion cites several reasons, including the information is not evidentiary and relevant to the case, the information sought is overbroad, the information is not necessary for the State to prepare for trial and amounts to a fishing expedition and the subpoena violates First Amendment rights.

"Rather than gather evidence related to the case, the State claims to need this information on the off-chance that the State could impeach prospective jurors on voir dire if they deny having read articles about the case ... Discovery abuses of this type are properly called a fishing expedition. The subpoena is grossly overbroad and demands documents that have nothing to do with the case. The subscriber list will never be offered into evidence and will do nothing to speed up or delay the trial," the motion to quash the subpoena states.

"ACM has the right to publish its newspapers free of the threat that its subscribers' names will be turned over to the State. Likewise, ACM's subscribers have the right to enjoy their anonymity when reading ACM's newspapers and not have the government looking over their shoulder ... In this instance, the anonymous subscribers of The Logan Daily News are engaged in traditional First



Amendment activity ... The State, through the subpoena, is now trampling on those rights and doing so for the flimsiest of reasons ...

If the State is allowed to proceed with its fishing expedition, the harm to ACM will be substantial. ACM has cultivated numerous business relationships with its customers and built those relationships on trust and years of providing dedicated service. By forcing ACM to dump its entire subscription list of The Logan Daily News into the hands of the State ... the subpoena will irreparably harm ACM's good will. ACM customers who subscribe to The Logan Daily News will naturally feel a sense of betrayal and question whether the newspaper is not 'in bed' with the government. Nothing is more fatal to the reputation of a newspaper than the perceived loss of its independence. Through the misguided subpoena, the State has carelessly struck at the heart of ACM's reputation. And worse yet, the State has inflicted this injury for reasons that have nothing to do with the merits of the case, but instead with the State's fear and mistrust of the jury."

The prosecution has not yet filed a response to ACM's motion. A status conference for the Ogle case will be held at 1:30 p.m. Monday, Feb. 14.

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