

FILED
LUCAS COUNTY
IN THE COURT OF COMMON PLEAS
LUCAS COUNTY, OHIO

MAY 19 A 10:34

STATE OF OHIO

Plaintiff,

v.

THOMAS W. NOE

Defendant.

CASE NO. CR-06-01348

JUDGE THOMAS J. OSOWIK

THOMAS W. NOE'S MOTION TO
CHANGE VENUE

The Defendant, Thomas W. Noe, hereby moves this Court pursuant to Crim. R. 18(B) and R.C. 2901.12 for a change of venue. The grounds for this motion are set forth in the following Memorandum in Support. Mr. Noe reserves the right to supplement this motion.

Respectfully Submitted,

William C. Wilkinson

William C. Wilkinson (0033228)
O. Judson Scheaf, III (0040285)
Craig A. Calcaterra (0070177)
Thompson Hine LLP
10 West Broad Street, Suite 700
Columbus, Ohio 43215-3435
(614) 469-3200
(614) 469-3361 (fax)
William.Wilkinson@ThompsonHine.com
Jud.Sheaf@ThompsonHine.com
Craig.Calcaterra@ThompsonHine.com

John R. Mitchell (0066759)
Thompson Hine LLP
3900 Key Center
127 Public Square
Cleveland, Ohio 44114-1291
(216) 566-5847
(216) 566-5800 (fax)
John.Mitchell@ThompsonHine.com

Attorneys for Thomas W. Noe

IN THE COURT OF COMMON PLEAS
LUCAS COUNTY, OHIO

STATE OF OHIO)	CASE NO. CR-06-01348
)	
Plaintiff,)	JUDGE THOMAS J. OSOWIK
)	
v.)	
)	<u>MEMORANDUM IN SUPPORT OF</u>
THOMAS W. NOE)	<u>THOMAS W. NOE'S MOTION TO</u>
)	<u>CHANGE VENUE</u>
Defendant.)	

I. INTRODUCTION

The freedom of the press guaranteed by the United State Constitution sometimes yields prejudicial and sensationalistic journalism. This is a price society pays for the assurance of a press free of governmental interference. However, that same Constitution also guarantees that a defendant charged with a crime will receive a fair trial, free of the influence of the media. Accordingly, Thomas Noe is entitled to enter a courtroom filled with prospective jurors whose views have not been influenced by media coverage. That will not happen if his trial is conducted in Lucas County. Since April 2005, Thomas Noe has been the subject of an unceasing barrage of intensely negative and prejudicial media coverage This assault, perpetrated in *The Toledo Blade* and other local media, includes the near daily publication and running of inflammatory statements and accusations against Mr. Noe.¹ This overwhelmingly negative pre-trial publicity has poisoned any potential *venire* in this case by sending a prospective jury pool a clear message: Thomas Noe should be considered guilty before he can even be tried. As a result, Thomas Noe cannot receive a fair trial in Lucas County and, accordingly, requests a change of venue to another county.

II. STATEMENT OF FACTS

A. **The Printed Articles Regarding Mr. Noe And The Events Surrounding His Prosecution.**

Between April 1, 2005 and May 17, 2006, *The Toledo Blade* has run over 755 articles, stories, editorials, or letters to the editor mentioning Thomas Noe by name and 155 articles mentioning "Coingate," the term *The Blade* uses to associate Mr. Noe's case with the infamous Watergate scandal.² This massive press assault, which continues today, has gone well beyond the mere reportage of events relating to the current prosecution. Rather, hundreds of articles have been written examining Thomas Noe's personal life, his character, his finances, his family, his friends, and his political activities. Mr. Noe has been portrayed negatively in the overwhelming majority of these articles.

Indeed, to appreciate the anti-Tom Noe message relentlessly printed in Lucas County, one only need read a recent editorial *The Blade* offered regarding Mr. Noe and his wife Bernadette:

We still believe, as we have said before, that Mr. Noe should go to trial on all charges- federal and state- and, if convicted, face the maximum punishment allowable. The brazenness of the alleged crimes is truly astonishing . . . So we are dismayed by the statement of Mr. Noe's wife, Bernadette, on Monday that her husband can't get a fair trial in Lucas County because of the "media frenzy" since *The Blade* first broke the Coingate story. We make no apology for her discomfort or his and defend the reporting and editorial commentary . . .

The Toledo Blade, "Justice Phase for Coingate," February 15, 2006.³ Further, examining a mere sample of headlines from its editorials and columns over the past year contained in *The Toledo*

² This data was derived by a Lexis/Nexis search of all *the Toledo Blade* articles for "Tom Noe," "Thomas W. Noe," "Thomas Noe," and "Coingate" during this date range.

³ *The Blade* has made a habit of using the term "brazen" with respect to Mr. Noe, repeating this term in at least three articles since last September, and as recently as this past Sunday. See "Warts and all, Lucas County has much

Blade (many of which were published well before Mr. Noe was ever charged with a crime) reinforces this bias:

- "Not All Noe Deals Involved Criminals" (February 16, 2006);
- "Ex-Coin Fund Associate Has Felony Record" (April 22, 2005);
- "Toledo-area coin dealer counted on GOP ties to bolster business" (May 15, 2005);
- "Noe's Absence Spawns Speculation, Gossip Among Coin Dealers at Show" (May 23, 2005);
- "Inspectors Not Allowed At Noe Sites; Taft Orders An Inventory Of All Coin Investments (May 24, 2005);
- "Wine Linked To Ohio Coin Scandal Stolen; Colorado Burglars Also Take Guns, Jewelry, Cars" (June 15, 2005);
- "Noe Sold Corvette 3 Days Before His Assets Were Frozen; \$35,000 Paid For Car Won In Raffle" (June 30, 2005);
- "E-Mail Records Show Noe Used Influence; He Finagled Invitation To White House For OSU Event" (July 7, 2005);
- "Noe Stole Millions" (July 22, 2005);
- "Double-Dealing Coin Managers Cost State Money" (July 24, 2005);
- "Noe Invested Ohio's Money In Gambling Firm" (July 27, 2005);
- "Noe Lavished Gifts On Political Bigwigs" (August 4, 2005);
- "Lavish Lifestyle Opened Political Doors For Noe" (October 2, 2005);
- "Letter Claims Noe Had Link To Bank In Caribbean" (November 11, 2005);
- "Moyer Says \$1,000 May Be A Donation Laundered By Noe" (November 12, 2005); and
- "Task Force Claims Former Taft Aide Funneled Noe Cash" (January 28, 2006);

to be proud of," May 14, 2006; "Justice Phase for Coingate," February 15, 2006, and "Voinovich appointment started rise; Work on campaigns got attention of aide," September 4, 2005.

But the headlines only tell part of the story. The content of the articles themselves has been even more prejudicial. *The Blade* has published scores of damning comments by influential state and local political figures from both political parties, poisoning any prospective *venire* this court could possibly empanel. For example:

- Bob Taft, Governor of Ohio: "Today's news makes it clear that Tom Noe has irresponsibly mismanaged the monies of the state of Ohio. Such criminal action is outrageous and will not be tolerated." (May 27, 2005);
- Bob Bennett, Chairman of the Ohio Republican Party: Mr. Noe is a "disgrace to himself and to his party . . . *When he's found guilty*, he should face the strongest possible punishment . . ." February 14, 2006 (emphasis added);
- Thomas Moyer, Chief Justice of the Ohio Supreme Court: Ohio Supreme Court Chief Justice Thomas Moyer said yesterday that Ohio Republican Party Chairman Bob Bennett told him Tom Noe may have illegally funneled contributions into his re-election campaign last year . . . "I didn't want anything to do with a conduit," Chief Justice Moyer said. (November 12, 2005)
- Jim Petro, Ohio Attorney General: Calling it a "pure misappropriation of public funds," Mr. Petro charged that Mr. Noe engaged in check forgery, presented false profits, and stole millions from the \$50 million Capital Coin I and II funds he managed from the Ohio Bureau of Workers' Compensation. (September 30, 2005);
- Rep. Chris Redfern, (D., Catawba Island): "They used the injured workers' dollars to defend the state and Tom Noe," said state Rep. Chris Redfern, the House minority leader. "and he probably filed briefs from houses bought with BWC money." (July 25, 2005);
- Sherrod Brown, U.S. Congressman: Mr. Noe's involvement at the Mint fits a pattern in the Bush Administration with oil companies writing energy laws and insurance companies writing medical laws. "And now you've got laws for the U.S. Mint written by a rare-coin dealer," said Mr. Brown, a Democratic candidate for the U.S. Senate. (April 4 2006);
- U.S. Rep. Marcy Kaptur, Toledo Democrat: In the state capital, Mr. Noe set up the "Noe Supper Club," a group of high-ranking government officials and Statehouse insiders who gathered for dinners at Morton's Steakhouse, where Mr. Noe picked up the tab blocks from the Statehouse. "I believe he was walking down the same path with the federal government," Miss Kaptur said . . . Miss Kaptur said it appeared that Mr. Noe's appointment to the Citizens Coinage Advisory Committee and his ascension as chairman was "wired." (April 2, 2006);

- Brian Rothenberg, Spokesman for Ohio Democratic Party: "People know who Tom Noe is. It is a negative association." (March 14, 2006);
- Ben Rothenberg, spokesman for the Ohio Democratic Party: "At the very least it's hypocritical," Mr. Rothenberg said. "[But] it's probably a safer gamble than giving money to Tom Noe." (July 27, 2005);
- Damien LaVera, Spokesman for the Democratic National Committee: Mr. Noe's federal post is another example of how the Bush Administration has abused the appointment process . . . Mr. Noe "was rewarded with a plum position that he used to direct public policy to his narrow interests." The spokesman said the appointment "is an abomination of the political process." (April 4, 2006);
- Damien LaVera, spokesman for the Democratic National Committee: "Tom Noe saw a golden money pot and he wanted a piece of it," said Damien LaVera, a spokesman for the Democratic National Committee, reacting to *The Blade's* findings. "But unfortunately, the Republicans in Washington were all too willing to help out their friends if they gave enough to the campaigns." (April 2, 2006);
- Larry Kaczala, Lucas County Auditor: "Unless you want something like Tom Noe to happen in Lucas County, you have to have someone from the other party." (April 2, 2006);
- William Becker, Assistant Attorney General: "From day one, Mr. Noe is converting money that belonged to the Ohio Bureau of Workers' Compensation for his own personal use," Mr. Becker said. (July 26, 2005);
- Mr. Laskey, former Bowling Green State University Trustee: "You know, he's a B.S.-er; he's a promoter. He loves the action," said Mr. Laskey. "He wants to be a player." (May 15, 2005); and
- Sen. Teresa Fedor (D., Toledo): State Sen. Teresa Fedor referred to the Ohio Republican Party and Mr. Noe as an "oligarchy." "No other states run such risks with their state funds. Why Ohio and why Tom Noe? He keeps re-investing his profits in Republican candidates," she said. (April 4, 2005).

To fully appreciate the breadth of the written assault against Mr. Noe, it is worth comparing it to the publicity garnered by another local high profile case, the *murder* prosecution of Gerald Robinson. In contrast to Mr. Noe, *The Blade* has published only 108 articles mentioning Gerald Robinson since his arrest in April 2004, or some 14% of the volume of coverage of Mr. Noe in a nearly twice as long a timeframe. This despite the fact that Gerald

Robinson's nationally-televised trial has already taken place, resulting in his conviction for murder.

Even the most tenuous link to Thomas Noe has been no bar to the publication of articles invoking his name, with *The Blade* finding ways to include him in articles having nothing to with him or this case. Examples of such articles include those associating him with recently-convicted Toledo City Councilman Bob McCloskey, recently-convicted murderer Gerald Robinson, indicted Congressman Tom De Lay, and former President Richard Nixon among others. Indeed, the sheer number of references to Tom Noe in *The Toledo Blade* has turned Mr. Noe's name into an epithet, using it as a shorthand for corruption or vice in any article that is even remotely related to government, Ohio politics, or investments of any kind. In short, from every angle, any prospective jury has been irretrievably prejudiced by the overwhelmingly negative written coverage Mr. Noe.

B. Television And Radio Accounts Regarding Mr. Noe And The Events Surrounding His Prosecution.

Mr. Noe's case and the circumstances surrounding his prosecution have garnered the attention of the electronic media as well. Since February 2006, television stations WTOL, WTVG, WNWO, WUPW and WLIO have run 155 stories regarding Mr. Noe.⁴ As with the written publicity, the prospective jury *venire* received a prejudicial assault regarding Mr. Noe and the circumstances surrounding this case that is heretofore unprecedented. Specifically, the prospective jurors have seen or heard the following television stories regarding the circumstances surrounding Mr. Noe's state and federal indictments:

- ABC 13 WTVG, Toledo, Ohio: Noe named in separate federal charge illegal contributions, Bush-Cheney re-election campaign. (February 13, 2006);

⁴ This data was derived by a Westlaw search of the following terms: (TOM W/3 NOE) (THOMAS W/3 NOE) (NOE & COIN).

- FOX 36 WUPW-OH, Toledo, Ohio: Two former Taft aides, Douglas Talbot and Doug Mormon have been charged with ethics violations that prosecutors say stem from their relationship with Maumee coin dealer Tom Noe. (February 11, 2006);
- FOX 36 WUPW-OH, Toledo, Ohio: According to *The Toledo Blade*, the US Treasury Department is investigating Tom Noe as a member of the committee that advised the department of coin design. Noe used his position to gain access to inside information and influence policy. (February 3, 2006);
- FOX 36 WUPW-OH, Toledo, Ohio: Coin controversy reports state that Noe owes the State of Ohio \$13 million.

Based on the in biased, polluted environment created by the unceasing negative media coverage described above, Mr. Noe cannot possibly hope to empanel an impartial jury of his peers and Ohio law is clear in holding that to subject him to such a trial is a violation of his right to due process.

III. LAW AND ARGUMENT

A. **Change Of Venue Is Appropriate Where Pre-Trial Publicity Is Voluminous And Prejudicial Nature.**

Change of Venue is governed by Crim. R. 18(B) and R.C. 2901.12, which provide that the court should transfer the action to another county when it appears that a fair and impartial trial cannot be held in the court in which the action is pending. Specifically, Crim R. 18(B) provides:

Upon the motion of any party or upon its own motion the court may transfer an action to any court having jurisdiction of the subject matter outside the county in which trial would otherwise be held, when it appears that a fair and impartial trial cannot be held in the court in which the action is pending.

Crim. R. 18(B). Revised Code § 2901.12 contains similar language and instructs the courts to grant change of venue motions when such motions should be granted “in the interests of justice.”⁵

The United States and Ohio Supreme Courts have held that if a defendant is tried in a venue in which he cannot obtain a fair trial, then he has been denied due process of law under the United States Constitution. *Sheppard v. Maxwell*, 384 U.S. 333 (1966); *State v. Yarbrough* (2002), 95 Ohio St. 3d 227. The Ohio Supreme Court has specifically held that “prejudice is presumed when pretrial publicity is sufficiently prejudicial and inflammatory and saturated the community where the trials were held.” *Yarbrough*, 95 Ohio St. 3d at 232.

In *Sheppard*, the United States Supreme Court granted habeas corpus relief to a Defendant doctor who was tried in the Cuyahoga County Court of Common Pleas and convicted of murdering his wife. The Court cited nine “flagrant episodes” of pretrial publicity. For instance, local newspaper headline stories repeatedly stressed what was perceived as the defendant's lack of cooperation with police, such as “Doctor Balks At Lie Test” and that the defendant would not allow himself to be injected with “truth serum.” *Id.* at 339.” *Id.* at 338. As the case wore on, editorials characterized the murder investigation as inept due to “friendships, relationships, hired lawyers, [and] a husband who ought to have been subjected instantly to the same third-degree to which any other person under similar circumstances is subjected” *Id.* The newspapers also heavily emphasized events that bore little or no relationship to the murder prosecution itself, but which served to inflame the passions of the jury pool, such as a story about

⁵ Specifically, the section provides “(K) Notwithstanding any other requirement for the place of trial, venue may be changed, upon motion of the prosecution, the defense, or the court, to any court having jurisdiction of the subject matter outside the county in which trial otherwise would be held, when it appears that a fair and impartial trial cannot be held in the jurisdiction in which trial otherwise would be held, or when it appears that trial should be held in another jurisdiction for the convenience of the parties and in the interests of justice.” See R.C. § 2901.12(K).

the defendant's extramarital affair and other facts or information that was not adduced at trial. *Id.* at 340. In deciding to grant the defendant habeas corpus relief, the Supreme Court began with the proposition that "the jury's verdict [must] be based on evidence received in open court, not from outside sources." *Id.* at 351. It reasoned:

Due process requires that the accused receive a trial by an impartial jury free from outside influences. Given the pervasiveness of modern communications and the difficulty of effacing prejudicial publicity from the minds of the jurors, the trial courts must take strong measures to ensure that the balance is never weighed against the accused. And appellate tribunals have the duty to make an independent evaluation of the circumstances. Of course, there is nothing that proscribes the press from reporting events that transpire in the courtroom. But where there is a reasonable likelihood that prejudicial news prior to trial will prevent a fair trial, the judge should continue the case until the threat abates, or transfer it to another county not so permeated with publicity.

Id. at 362-363. (emphasis supplied).

Similarly, in *Forsythe v. Ohio* (Allen Cty. 1967), 12 Ohio Misc. 99, Allen County was "saturated with publicity of a nature extremely damaging" to the defendant from the time immediately following the victim's death until the time of the verdict over four months later. *Id.* at 100. Lima newspapers referred to the defendant as an "ex-con," "vice figure," and as the "Allen County Vice King." *Id.* Moreover, the Court held that a mere *thirty* articles demonstrated the voluminous and prejudicial publicity to which the defendant was subjected. *Id.* at 100-104. In granting the petition, the court concluded:

With his life at stake it is not requiring too much that Forsythe should have been tried in an atmosphere undisturbed by so intensive a trumpeting of his past and the details of the case against him. Where there is a reasonable likelihood that prejudicial news prior to trial will prevent a fair trial, and postponing the trial will not remove the threat, the judge should transfer the case to another county not so permeated with publicity.

A showing of actual prejudice is not necessary in order to reverse here. It has been explained before that in this area logic and experience can substitute for proof.

Anyone viewing this case with objectivity, after examining the publicity surrounding it, must believe that the real trial of Ralph Forsythe took place on the front pages of *the Lima News* and *Citizen* and over the air waves.

Id. at 106-107. (emphasis supplied) (citations omitted).

The principles recognized in *Sheppard* and *Forsythe* were validated by the Supreme Court of Ohio in *State ex rel. Dayton Newspapers, Inc. v. Phillips* (1976), 46 Ohio St. 2d 457. The *Dayton Newspapers* court took the further step of holding that merely issuing orders designed to limit the amount of negative press coverage is inferior to moving the locale of the trial itself, stating “[a]ny right the public has to have such a case ‘tried in that locale’ must yield to the constitutional right of the defendant to a fair trial and the constitutionally protected freedom of the press.” *Id.* 464.

Moreover, courts have routinely recognized that even if news coverage of a given case is purely factual in nature, coverage that is “continuous and extensive enough, can be potentially prejudicial.” *Williams v. Superior Court* (1983), 34 Cal.3d 484, 590 (granting a change of venue where 159 items appeared in the local newspaper concerning the defendant in the two years before trial). Similarly, the Court in *U.S. v. Saha* (D. Haw. 1997), 980 F. Supp. 1157, granted a change of venue based on presumed prejudice because the community was “saturated with prejudicial and inflammatory media publicity about the crime.” *Id.* at 1158. The *Saha* cited as particularly prejudicial stories dealing with the defendant’s background that had little, if anything, to do with the case at bar. *Id.*; see also *People v. Boss* (N.Y. App. Div. 1999), 261 A.D.2d 1, 4 (N.Y. App. Div. 1999) (granting motion to change venue of Defendant police

officers charged with murder where the "case has been deluged by a tidal wave of prejudicial publicity to such an extent that even an attempt to select an unbiased jury would be fruitless," citing *three* particularly egregious reports); *United States v. Ebens* (E.D. Mich. 1987), 654 F. Supp. 144 (granting change of venue from the Eastern District of Michigan to the Southern District of Ohio where the publicity saturation included *sixty eight* pages of articles from local newspapers); *United States v. Moody* (N.D. Ga. 1991), 762 F. Supp. 1485 (granting motion to change venue, concluding: "from examination of the media coverage cited by defendant, the court finds that there has been inordinate, widespread, and prejudicial publicity concerning this case and that government agents have been responsible for much of it.").

B. The Volume And Nature Of Pretrial Publicity Related To Mr. Noe Has Been Such That He Cannot Possibly Receive A Fair Trial In Lucas County.

As noted above, the quantity, intensity and prejudicial nature of the media coverage relating to Mr. Noe in this case is unprecedented. Standing alone, this relentless coverage, the vast majority of it negative, is sufficient to establish the likelihood of community prejudice tainting the entire *venire*, and requires a change of venue for trial.

The *Sheppard* case was decided in 1966, well before the expansion of the modern media and the multiple outlets of its daily deluge of information. However, the parallels between the *Sheppard* case and Mr. Noe's case are such that a comparison highlights how the present atmosphere in Lucas county echoes the one the United States Supreme Court found so prejudicial in Cuyahoga county over 50 years ago.

Just as the *Sheppard* court cited newspaper stories regarding the defendant's perceived lack of cooperation with police as unduly prejudicial, here the local media has published multiple stories falsely accusing Mr. Noe of refusing to allow inspectors in his place of business. See *The Toledo Blade*, "Inspectors Not Allowed At Noe Sites; Taft Orders An Inventory Of All Coin

Investments,” May 24, 2005. Similarly, just as the court found in *Sheppard* that media reports alleging that the investigation into the defendant’s conduct was compromised by his relationships to powerful figures and perceived social standing, Mr. Noe has been repeatedly accused in the press of using his influence, political connections, and lavish lifestyle to obtain preferential treatment both before and after the investigation into his activities involving the Coin Funds began. See *The Toledo Blade*, “Toledo-area coin dealer counted on GOP ties to bolster business,” May 15, 2005; “E-Mail Records Show Noe Used Influence; He Finagled Invitation To White House For OSU Event,” July 7, 2005; and “Noe Lavished Gifts On Political Bigwigs,” August 4, 2005.

In place of the extramarital affairs reported in *Sheppard*, the media has ratcheted up the salaciousness factor by attempting to associate Mr. Noe with everything from stolen guns, jewelry, cars, wine, and cigars (See *The Toledo Blade*, “Wine Linked To Ohio Coin Scandal Stolen; Colorado Burglars Also Take Guns, Jewelry, Cars,” June 15, 2005); Caribbean bank accounts (“Letter Claims Noe Had Link To Bank In Caribbean,” November 11, 2005), and missing coins (“Experts Trace Origin Of Missing Gold Coins,” July 5, 2005). This despite the fact that the guns, wine and cigars didn’t belong to Mr. Noe, the Caribbean bank accounts were shown to be non-existent, and the coins trumpeted as “missing” turned out to not be missing at all. Likewise, the media has made a habit of writing stories describing Mr. Noe’s simple comings and goings in the language of cloak and dagger thrillers (See *The Toledo Blade*, “Noe transferred \$3.18M to own firm, review finds; Checks being examined as part of coin probe,” July 23, 2005)⁶ and has passed up no opportunity to use Mr. Noe’s name in any story involving

⁶ This article contains an extended account of Mr. Noe walking to a parking garage and leaving in his car, described in the tone of an action-packed, tension-filled thriller.

unpopular politicians, rare coins, or steak dinners, regardless of whether the story bears any relationship to Mr. Noe or the case at bar.

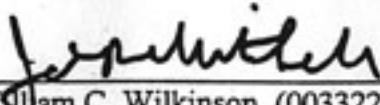
No public official offered any opinion on Dr. Sheppard or his innocence. Yet, the Governor, the Chief Justice of the Ohio Supreme Court, chairpersons of both major political parties, two United States representatives, the attorney general, and numerous other state senators, state representatives and other political figures have smeared Mr. Noe's character or proclaimed his guilt in the Toledo area. These comments have not been confined to commenting on the current charges faced by Mr. Noe – they also include his pending federal case and other alleged criminal cases and acts whether or not they involve Mr. Noe. See § II(A) *supra*.

As a result of this unceasing, prejudicial media barrage any potential *venire* in this case has been poisoned, and the hopes of Mr. Noe being able to receive a trial before an unbiased jury are practically non-existent. It is for circumstances such as these that Crim. R. 18(B) and R.C. §2901.12 were enacted, and precisely why Mr. Noe's trial should be moved to another county in this case.

IV. CONCLUSION

The Blade has already rendered its verdict: "We still believe, as we have said before, that Mr. Noe should go to trial on all charges- federal and state- and, if convicted, face the maximum punishment allowable. The brazenness of the alleged crimes is truly astonishing." However, due process dictates that Mr. Noe receive a trial in an atmosphere untainted by this unending, year-long onslaught against him. Accordingly, Mr. Noe respectfully requests that this Court transfer this action to a county where he can receive a fair trial.

Respectfully Submitted,



William C. Wilkinson (0033228)
O. Judson Scheaf, III (0040285)
Craig A. Calcaterra (0070177)
Thompson Hine LLP
10 West Broad Street, Suite 700
Columbus, Ohio 43215-3435
(614) 469-3200
(614) 469-3361 (fax)
William.Wilkinson@ThompsonHine.com
Jud.Sheaf@ThompsonHine.com
Craig.Calcaterra@ThompsonHine.com

John R. Mitchell (0066759)
Thompson Hine LLP
3900 Key Center
127 Public Square
Cleveland, Ohio 44114-1291
(216) 566-5847
(216) 566-5800 (fax)
John.Mitchell@ThompsonHine.com

Attorneys for Thomas W. Noe

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing Motion to Change Venue was served this 18th day of May, 2006, via facsimile, and this 19th day of May, 2006 via hand-delivery to the Lucas County Prosecutor's Office, Lucas County Courthouse, Adams and Erie Streets, Toledo, OH 43624.



One of the Attorneys for Thomas W. Noe