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## Plaintiffs Lawyer Seeks to Depose Newspaper Editor and Reporter

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Texas Lawyer

04-23-2007

The last-minute filing of a motion to quash subpoenas on April 19 blocked Beaumont plaintiffs attorney Brent Coon from taking the depositions of a U.S. Chamber of Commerce-owned newspaper's staff members whom Coon claims tried to taint the jury panel for an asbestos-related case he was trying.

"It's a total fabrication," Greg Coleman, attorney for the Southeast Texas Record staffers, says of Coon's allegations.

Following an April 13 hearing, Judge Donald Floyd of Beaumont's 172nd District Court granted a motion that Coon filed seeking subpoenas to depose two newspaper staff members. Coon had scheduled the depositions for 10 a.m. on April 19.

Floyd set an April 25 hearing on the newspaper staff members' motion to quash the subpoenas.

Coon, a principal in Brent Coon & Associates, alleged in a [Plaintiffs Motion to Show Cause to Issue Subpoena](#) that Marilyn Tennissen, the Southeast Texas Record's editor, and David Yates, a reporter for the paper, distributed copies of the newspaper's inaugural issue to potential jurors at the Jefferson County Courthouse on April 2. The issue contained an editorial critical of plaintiffs lawyers' use of screening companies to identify potential clients with asbestos or silica-related claims.

"We caught them handing this out inside the courthouse," Coon says in an interview.

Coon further alleged in the subpoena motion, filed in the 172nd District Court on April 10 in the wrongful-death case — Cinthia Ann Douglass and James D. Jones, Individually and as Independent Co-Executors of the Heirs and Estate of James M. Jones, Deceased v. AC&S Inc., et al. — that Tennissen and Yates tried to enter the courtroom while the panel of potential jurors was present and attempted to listen to private communications between attorneys and their clients.

In an interview, Coon maintains there are witnesses who saw Tennissen and Yates hand copies of the newspaper to potential jurors.

Coleman, a former Texas solicitor general who is a partner in Yetter & Warden in Austin, denies that Tennissen and Yates gave copies of their newspaper to potential jurors. He says two lawyers in Coon's firm approached the newspaper staff members and requested copies of the publication.

Anyone who saw the newspaper on April 2 could not have been a juror on the Douglass case, because Coon's firm settled the case on that date, Coleman says.

Coon argued his motion before Floyd during the April 13 hearing. Coleman says Coon did not provide notice to Tennissen and Yates about the hearing but held a news conference immediately after the hearing.

"If you are seeking some sort of sanction or relief against a person, you have to give them notice before you go into court against them," Coleman says.

Coleman maintains Coon is trying to take his clients' depositions "in a vacuum," because there is no live controversy to which Coon's motion for subpoenas is tied. Coon's firm settled Douglass, Coleman says.

Coon says he filed the motion in Douglass, because Floyd still has jurisdiction over the case, even though it settled.

"But his allegations have nothing to do with the Douglass case," Coleman says.

In their motion to quash, Tennissen and Yates argue that Coon seeks to call journalists to answer for alleged conduct that is constitutionally protected.

Charles "Chip" Babcock, who frequently represents media clients but who is not involved in the Record's case, says, "The newspaper has a First Amendment right to distribute its newspaper, subject only to reasonable, nondiscriminatory regulations."

Babcock, a partner in Jackson Walker in Houston, says the newspaper staff members would be barred from distributing copies of their publication in the courthouse if a judge said they could not do so. "In the absence of that, they certainly were free to do it," he says.

Coon says the U.S. Chamber of Commerce publishes newspapers such as the Southeast Texas Record in areas that tort reform groups have labeled litigation "hellholes."

The Southeast Texas Record is one of three newspapers that the U.S. Chamber of Commerce has started over the past three years, says Brian Timpone of Chicago, the publisher of the three publications. The other newspapers, which Timpone describes as legal journals, are in Madison County, Illinois, and in West Virginia.

"We open the papers in the venues that have the most civil litigation," Timpone says.