

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA

KAREN ROEBUCK,

Plaintiff,

v.

TRIB TOTAL MEDIA, INC., t/a
PITTSBURGH TRIBUNE REVIEW, also
t/a TRIBUNE-REVIEW PUBLISHING
COMPANY, JAMES CUDDY, JR.,
FRANK CRAIG, and JOHN DOE, a/k/a
"NONE",

Defendants.

CIVIL DIVISION

G.D. No. 10-000727

**BRIEF IN SUPPORT OF MOTION TO
QUASH SUBPOENA**

Filed on Behalf of: Defendants
Trib Total Media, Inc., t/a Pittsburgh
Tribune Review, also t/a Tribune-
Review Publishing Company, James
Cuddy, Jr., and Frank Craig,

Counsel of Record for This
Party:

H. Yale Gutnick, Esquire
Pa. I.D. No. 01226

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Pa. I.D. No. 52734

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IN THE COURT OF COMMON PLEAS OF ALLEGHENY,
PENNSYLVANIA

KAREN ROEBUCK,)	CIVIL DIVISION
)	
Plaintiff,)	G.D. 10-727
)	
v.)	
)	
TRIB TOTAL MEDIA, INC., t/a)	
PITTSBURGH TRIBUNE REVIEW,)	
also t/a TRIBUNE-REVIEW)	
PUBLISHING COMPANY, JAMES)	
CUDDY, JR., FRANK CRAIG, and)	
JOHN DOE, a/k/a "NONE",)	
)	
Defendants.)	

**BRIEF IN SUPPORT OF
MOTION TO QUASH SUBPOENA**

Defendants Trib Total Media, Inc., Frank Craig and James Cuddy, Jr., by their undersigned counsel, respectfully submit the following Brief in Support of their Motion to Quash a subpoena issued by Plaintiff to a website operator in California:

DISCUSSION

Plaintiff has obtained a Writ of Summons naming a "John Doe" Defendant as well as three specific Defendants. The specifically-named Defendants are Trib Total Media, Inc., and two of its editors, Frank Craig and James Cuddy, Jr. No Complaint has been filed.

In her Motion to Extend Time to File Complaint, Plaintiff indicated that this is a libel action based on two statements that were posted by an unknown person or persons using the pseudonym "None" on a website known as www.voy.com or

VoyForums. This website contains a statement that it is “a free service of Voyager Info-Systems. See Exhibit “A” hereto. Voyager Info-Systems’ own website indicates that it is a Beverly Hills, California technology company. See Exhibit “B” hereto.

Defendants obtained a Rule to File Complaint on January 14, 2010. On February 26, 2010, Plaintiff was granted 60 days to file her Complaint.

On or about February 23, 2010, Plaintiff appears to have delivered a “Rule 4009.22 Subpoena” to Voyager Info-Systems. See Exhibit “A.” The manner of delivery of this document, and the address to which it was delivered, are unclear. What *is* clear, however, is that Plaintiff did not give counsel for Defendants 20 days’ advanced notice of service of the “subpoena,” as required by Pa. R. Civ. P. 4009.21 *et seq.* It also does not appear that the document bears any imprimatur from a California court. Exhibit “C.”

The “subpoena” is therefore a nullity.

Upon its receipt of the “subpoena,” Voyager Info-Systems posted a message on VoyForums indicating that it would comply with the document unless someone came forward to file a Motion to Quash within thirty (30) days. Exhibit “A.”

Defendants Trib Total Media, Inc., Frank Craig and James Cuddy, Jr. presented their Motion to Quash the subpoena to this Court on March 26, 2010. This Brief is submitted pursuant to an Order of Court issued on that date.

Obviously, the extant “subpoena” must be quashed because Plaintiff did not follow the procedure set out in Rule 4009.21 *et seq.* and thus had no

authority to issue it. Furthermore, although Plaintiff's counsel has made unverified statements that VoyForums "has moderators" in Pennsylvania, it is unclear what impact if any this has on this Court's personal jurisdiction over any possessor of information that would identify the anonymous writer.

Finally, under *Melvin v. Doe*, 49 Pa. D. & C.4th 449, 452 (Allegh. Co. 2000), Plaintiff should not be permitted to use the discovery process to learn the identity of the John Doe Defendant until she has presented "evidence which would support a finding that the statement was made, the statement is false, the statement is defamatory, and she has sustained actual harm." Defendants do not believe Plaintiff can meet this burden.

Plaintiff argues that Defendants do not have standing to challenge a subpoena under *Melvin v. Doe*. This is incorrect.

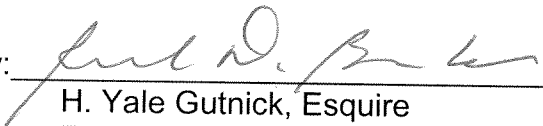
Plaintiff has sued the three specifically-named Defendants, and has told this Court that her claim arises out of the words written by the unknown John Doe. To sue these three named Defendants, Plaintiff must necessarily allege that the three Defendants either *are* John Doe, or are responsible at law for words written by him. In other words, Plaintiff's only possible claim against the three named Defendants must rest upon the proposition that revealing John Doe's identity will reveal these Defendants' liability. Quite simply, Plaintiff must allege that the undersigned effectively represents John Doe through one of the three named Defendants, or else Plaintiff's claim against the three named Defendants must fail.

These latter arguments regarding the *Melvin v. Doe* standard are, however, premature. Even if someone who is affiliated with VoyForums, and who is in possession of information that could identify John Doe, is located within the Commonwealth of Pennsylvania, Plaintiff has failed to bring any such person within the jurisdiction of the Court by failing to follow Rule 4009.21.

Accordingly, the "subpoena" issued to Voyager Info-Systems should be quashed.

Respectfully submitted,

STRASSBURGER McKENNA GUTNICK
& GEFSKY

By: 
H. Yale Gutnick, Esquire
Ronald D. Barber, Esquire
Jean E. Novak, Esquire

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(412) 281-8264 (Fax)

Counsel for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **Motion for Protective Order and to Quash Subpoena** was served by First Class Mail, U.S. Mail, postage prepaid, this 5th day of April, 2010, on the following:

John Newborg, Esquire
428 Forbes Avenue
Suite 1600
Pittsburgh, PA 15219

John R. Orie, Jr., Esquire
Orie & Zivic
Lawyers Building
428 Forbes Ave, Ste 2500
Pittsburgh PA 15219-1603

STRASSBURGER McKENNA GUTNICK
& GEFSKY

By: 

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Counsel for Defendants



Local Newspapers

Find Pittsburgh area newspapers - dailies, weeklies, tabloids.

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[[VoyUser Login](#) optional] [[Contact Forum Admin](#)] [[Post a new message](#)] [[Search](#) | [Check update time](#) | [Archives: 1, 2, 3, 4, 5, 6](#)]



Pittsburgh Media Scoops and Gossip

Welcome, newsroom pros and moles. Here's the spot for all the latest dish and debate on what's happening in Pittsburgh media. This is a forum to talk about issues affecting the Pittsburgh media scene. Things to remember:

1. Do not post under the name of a Pittsburgh media person, past or present, unless it is YOUR name.

ALSO...Do not post under a name that has been established by another poster.

2. No personal attacks. You may post opinions about the work that people do but personal attacks will not be tolerated.

3. We're not interested in screeds about how useless the board is. That's a sure way to get deleted.

March 9, 2010 -- Notice of subpoena for identity of John Doe

This notice is to inform you that a defamation lawsuit has been filed in the Court of Common Pleas of Allegheny County, Pennsylvania relating to messages posted on this messageboard on January 13, 2009 and January 18, 2009, by an author using the pseudonym "None" under the thread "sick day or sick policy?"

A subpoena has been issued in an action entitled: Roebuck v. Craig, et al, GD-No-10-000727

The subpoena, dated 2-23-2010, requires that Voyager Info-Systems release IP information on the above-mentioned author(s) posts. Please be aware that communications with Voyager Info-Systems may also be

EXHIBIT

A

tabbles

discoverable.

The attorney for the subpoenaing party is: John Newborg, Esquire. He may be reached at (412) 281-1106.

Please be advised that Voyager Info-Systems will be responding to the subpoena **30 days from the date of this notice**, unless we receive notice that a motion to quash the subpoena has been filed, or the matter has been otherwise resolved. If we receive notice that a motion to quash is being pursued, we will wait 15 more days to receive notice and confirmation that the motion has been filed. You may wish to consult an attorney to advise you about the foregoing. If you wish to contact Voyager regarding this matter, please direct your correspondence to voyfgen1@voy.com

A snapshot of the forum from 3-2-2010 has been duplicated at <http://www.voy.com/158429/>

A copy of the subpoena can be found at [http://www.voy.com/images/legal/Roebuck v. Craig, et al-subpoena-20100228.jpg](http://www.voy.com/images/legal/Roebuck_v._Craig_et_al-subpoena-20100228.jpg)

- **Has John Steigerwald gone batty?** -- Game Watcher, 17:08:47 03/25/10 Thu [1]
Get a load of this blog item:

<http://justwatchthegame.com/blog/ruthless-dictator-likes-obamacare>

[[Post a Reply to this Message](#)] [[Edit](#) | [View](#)]

Replies:

- [Re: Has John Steigerwald gone batty?](#) -- Onlooker, 22:08:23 03/25/10 Thu
 - [Re: Has John Steigerwald gone batty?](#) -- John Boy, 05:46:52 03/26/10 Fri
 - [Re: Has John Steigerwald gone batty?](#) -- Taylor Rusk, 21:42:07 03/26/10 Fri
 - [Re: Has John Steigerwald gone batty?](#) -- Max Wax, 04:02:17 03/27/10 Sat
 - [Re: Has John Steigerwald gone batty?](#) -- smitty, 05:25:38 03/29/10 Mon
- [Re: Has John Steigerwald gone batty?](#) -- Jason, 14:24:03 03/27/10 Sat

- **"C" Street Family -- Helena Montana**, 21:08:22 04/01/10 Thu [1]
Tonight, Rachel Maddow mentioned Mike Doyle's name in connection with the highly-secretive Washington-based religious group known as The Family.

Doyle's name has mentioned in conjunction with The Family in various periodicals. Yet, I have never seen the PG or the Trib story concerning Doyle and The Family.

I would like to know why?

Would someone at the Trib or the PG please enlight me.

[[Post a Reply to this Message](#)] [[Edit](#) | [View](#)]

- **WVU Sports and the PG -- Helena Montana**, 21:15:28 04/01/10 Thu [1]
How many copies of the PG are sold each day in Wheeling? Weirton? Morgantown?

Why does the PG devote so much space and resource to WVU sports?

If the PG want to increase circulation, wouldn't make sense to focus on the colleges and universities in its circulation area. These schools might be Division III, but their schools are a part of the communities in the PC

[[VoyUser Login](#)] Not required to post.

Post a new public message:

Note: This forum is moderated -- new posts are not visible until approved.

* Notice: Posting problems? [[Click here](#)]

* HTML allowed in marked fields.

Message subject (required):

Name (required):

Expression (Optional mood/title along with your name) Examples: (happy, sad, The Joyful, etc.) [help](#)

E-mail address (optional):

* Type your message here:

Note: This forum is moderated -- new posts are not visible until approved.

[Send] [Preview] [Clear]

Notice: Copies of your message may remain on this and other systems on internet. Please be respectful.

[[Contact Forum Admin](#)]

Forum timezone: GMT-8

VF Version: 2.94, ConfDB:

Before posting please read our [privacy policy](#).

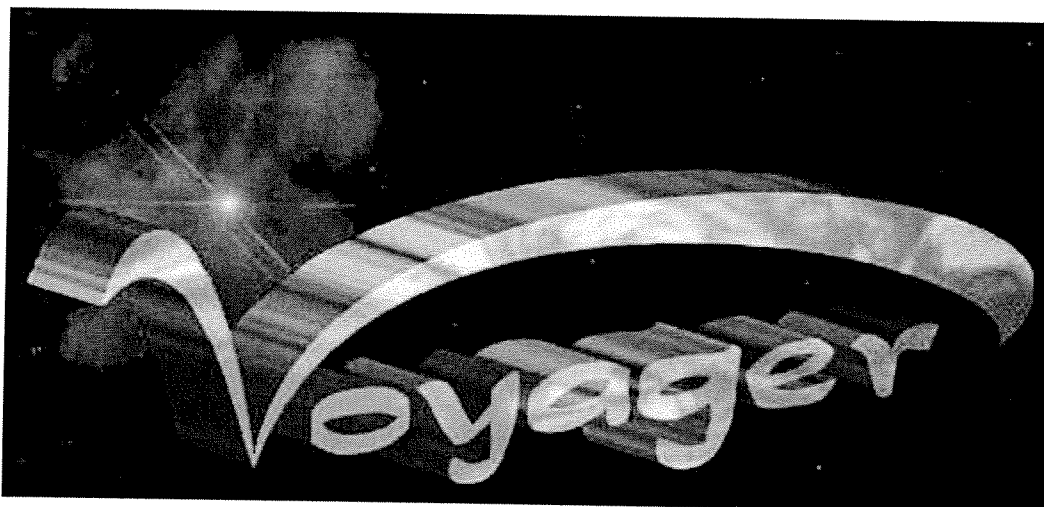
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CADMV.biz



Voyager Info-Systems^(tm) is a Beverly Hills-based company endeavoring to create original, useful, and powerful web services through innovative application and generation of Internet technology.
...Since 1994...

Services from Voyager Info-Systems:

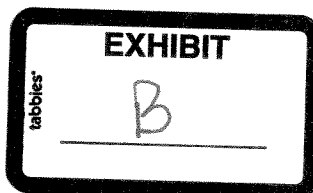
..... ... www.Voyager.com Services
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..... Online communities Language reference tool
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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUN

THE COMMONWEALTH OF PENNSYLVANIA)ss:
COUNTY OF ALLEGHENY)

Karen Roebuck

vs.

No. GD-

Trib Total Media, et al

**SUBPOENA TO PRODUCE DOCUMENTS OR THINGS
FOR DISCOVERY PURSUANT TO RULE 400**

To: Voyager Info-Systems
Name of Person or Entity

Within twenty (20) days after service of this subpoena, you are ordered by the court to produce the following documents or things:

Document showing IP Address for poster with
"None" on "Pittsburgh Media Scoops + Gossip" or
at 1600 Lawyer's Bldg., 428 Forbes Ave., Pittsburgh
Address

You may deliver or mail legible copies of the documents or produce things in compliance with this subpoena, together with the certificate of compliance, to the party making this subpoena listed above. You have the right to seek in advance the reasonable cost of producing the things sought.

If you fail to produce the documents or things required by this subpoena within ten (10) days of its service, the party serving this subpoena may seek a court order compelling compliance.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING

Attorney's Name: John Newborg, Esq.

