

HIGH-PROFILE CASES IN A MEDIA FRENZY

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**BLINDED BY THE LIGHT:
TRYING THE HIGH-PROFILE CASE IN THE MIDST OF A MEDIA FRENZY**

Description: In 2006, Thomas W. Noe was indicted by the State of Ohio for his involvement in the biggest political scandal in Ohio's history. John Mitchell was Mr. Noe's trial counsel and defended him amid the intense national, state and local media scrutiny over his ties to Ohio's highest ranking public officials -- the Governor, Attorney General, State Auditor and many others. Mr. Mitchell will focus on how to use the media to your advantage and the proactive steps that you can take when you or your clients are caught in an unwelcome and biased media spotlight.

I. History of the Case

A. Political Environment: Ohio Legislature, Executive Branch dominated by Republicans for the last 16 years.

1. Who is Tom Noe?

2. EXHIBIT- Photograph with the President/Governor

3. Public Involvement: Chairman of the Ohio Board of Regents, Chairman of the Ohio Turnpike Commission, former member of the Board of Trustees at Bowling Green State University, former Director of the Lucas County (Toledo) Republican Party and served on the Lucas County Board of Elections for 10 years.

4. Private Involvement: Founder, owner and President of Vintage Coins & Collectibles. Vintage Coin & Collectibles was a private company dedicated to the purchase and sale of rare coins and collectibles.

B. Ohio Invests in Rare Coins in 1997 and 2001: Bureau of Worker's Compensation ("BWC") approves a total investment of \$50 million in rare coin funds.

1. 1997- Initial RFP: Vintage Coin & Collectibles and Delaware Valley Rare Coin approved as managers of \$25 million Capital Coin Fund.

2. 2001- Second RFP: Vintage Coin & Collectibles approved as manager of \$25 million Capital Coin Fund II.

C. EXHIBIT- April 4, 2005: *Toledo Blade* runs an article about Rare Coin Investments.

D. Government's Response

1. April 7, 2006- Ohio Inspector General publicly announces an investigation.
2. May 9-11, 2005: BWC announced it was dissolving its investment.
3. May 15, 2005: State Auditor announced it was initiating an official investigation.
4. May 17, 2005: the BWC announced its own audit of the Coin funds.
5. May 23, 2005: Governor orders a complete inventory of the Coin Funds.
6. May 26, 2005: Search warrant executed on Vintage Coin & Collectible's office.
7. February 11, 2006: Tom Noe Indicted.

E. Case Facts

1. 53 Counts, including Engaging in a Pattern of Corrupt Activity (Ohio's RICO statute), Theft, Money Laundering, Tampering with Records, and Forgery. Government alleges Noe stole over \$13 million during his management of the coin funds.
2. Over 600,000 documents.
3. Over 300 witnesses on initial witness list (including 2 U.S. Senators and numerous other political figures).

F. Election Time: Hostile Environment to Try a Case

1. MEDIA PLAY: Run campaign commercials.
 - a. Gubernatorial Race: *Turnaround Ohio*
 - b. Attorney General's Race: *Marc Dann Commercial*
 - c. Senatorial Race: *Mike Dewine Commercial*
 - d. State Auditor: *Sykes Commercial*
2. EXHIBIT: *Toledo Blade* Headline about Jurors not hearing the whole truth.
3. Recognize: The Court Reads the Paper Also.

II. Dealing with the Media

A. Set the Tone

- 1. Bill Wilkinson (co-counsel): Be Proactive, not reactive- the media is not going away.**
- 2. Clear, simple message: Spend the time, develop your theme (just like trial) and be consistent. The media will take it and run with it.**
 - a. Message: Coin Funds made money for the State of Ohio.**
 - 1. Mention Liquidator's Report, Attorney General's Comments.**
 - 2. Coin Fund Money paid the State over \$8 million.**
 - b. Message: All of Noe's actions were contractually permitted.**
 - 1. EXHIBIT- Excerpt from Prospectus offered to the State.**
 - 2. EXHIBIT- Excerpt from the Coin Fund operating agreements.**

B. An Ounce of Prevention is Worth a Pound of Cure.

- 1. Media Training- Not a waste of time, but a valuable tool. They control the question, but you control the answer.**
- 2. Media Consultant- importance.**
- 3. Personal Relationships**
 - a. These people buy Ink by the Barrel**
 - b. Professional, friendly, yet say nothing.**

C. You Don't Have to Give a Sound-bite to Make Headlines.

- 1. You are on-stage 24 Hours/7 days a week in the high-profile media case.**
- 2. Motions in Limine**
 - a. Wonderful mechanism to offer the "party line."**
 - b. Discovery Battles- Press the Theme**
 - c. Motion to Suppress: Hearing lasted 4 days, exposed many flaws in government's case, opportunity to press the theme.**

d. EXHIBIT: MOTION FOR CHANGE OF VENUE

3. Ask for Oral Arguments: Make your points.

III. Lawyers Do Their Best Work when Their Backs are in a corner.

A. Noe Convicted, Sentenced- Government's Sense of Relief, not of Triumph

B. 53 Counts, ended up with 29 (4 misdemeanors)- Supposed to be a slam-dunk for the Government.

C. Strong, potentially determinative appellate issues



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John is an associate in the Product Liability Litigation, Competition, Antitrust and White-Collar Crime and Business Litigation practice groups. His product liability practice focuses on disputes involving toxic torts, products and premises, and injuries to persons and property. He has traveled throughout the United States defending clients involved in industry-wide toxic tort litigation, such as vinyl chloride, welding rod, asbestos, and lead paint. John has also defended product liability claims against a domestic automobile manufacturer, chain saw manufacturers, and manufacturers of protective equipment for punch press machines. John has also defended multiple intentional tort cases involving a variety of workplace safety issues. John's civil litigation background has given him extensive experience in issues regarding medical causation, including expert witness identification, retention and examination. John has handled general commercial litigation and complex class action litigation matters as well.

John also has a significant white-collar crime practice. He served as trial counsel for a rare-coin dealer charged with violations of Ohio's Corrupt Activities, Theft, Money Laundering, Forgery and Tampering with Records statutes. John has also advised Thompson Hine clients involved in internal corporate investigations and external investigations commenced by law enforcement. Many of his greatest successes are also the least publicized, namely resolving sensitive matters without criminal charges or adverse publicity.

Prior to joining Thompson Hine, John served as an assistant prosecuting attorney for Cuyahoga County. He was a member of the Major Trials Unit, where he first chaired complex criminal litigation such as homicides, rapes, and crimes against children. During his tenure as a prosecutor, John tried approximately 50 jury trials and dozens of bench trials. He also handled sensitive, large-scale grand jury investigations in which he determined charges, issued subpoenas, interviewed witnesses and tried the indicted cases. He has also served as a special prosecutor in homicide, public corruption, and organized crime cases.

John has extensive appellate experience in the Ohio Supreme Court and the Eighth and Ninth District Appellate Courts of Ohio. John has successfully argued more than 25 appeals in the Eighth and Ninth District Appellate Courts.

John is admitted to practice in Ohio and the U.S. District Courts for the Northern and Southern Districts of Ohio.



