

IN THE SUPREME COURT OF OHIO

STATE, *ex rel.* THE CINCINNATI ENQUIRER, a Division of Gannett Satellite Information Network, Inc.  
312 Elm Street  
Cincinnati, Ohio 45202

Case No. 11-1643

Petitioner,

vs.

HONORABLE NADINE ALLEN,  
Hamilton County  
Court of Common Pleas  
1000 Main Street, Room 495  
Cincinnati, Ohio 45202

Respondent.

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COMPLAINT FOR WRIT OF MANDAMUS

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For its Complaint, Petitioner The Cincinnati Enquirer, a division of Gannett Satellite Information Network, Inc. (“The Enquirer”), states as follows:

1. The Enquirer is a newspaper of general circulation in southwestern Ohio.
2. Respondent Nadine Allen is a judge in the Hamilton County, Ohio Court of Common Pleas.
3. Judge Allen is presiding over the case of *State of Ohio v. Martin Morris*, Case No. B1001826 (“the Action”).
4. At some point during the pendency of the Action, Judge Allen entered an order sealing all of the records in the Action (the “Order”).
5. The effects of the Order are that public access to the case documents has been completely denied, and, in addition, even docket information is shielded from public view.
6. Upon information and belief, Judge Allen failed to comply with Rule 45(E)(2), Ohio Rules of Superintendence in the following ways:
  - a. Rule 45(E)(2) presumes that the court may restrict public access only on a document-by-document review. Rule 45(E) does not permit the court to issue a blanket order denying public access to all case documents. Upon information and belief, Judge Allen issued the Order without conducting a document-by-document review.
  - b. In considering whether to restrict public access to a case document, Rule 45(E)(2) requires that the court find by clear and convincing evidence that the presumption of public access is outweighed by a higher interest. Upon information and belief, Judge Allen issued the Order without considering evidence of any higher interest.

c. When restricting public access to a case document, Rule 45(E)(3) requires the court to use the least restrictive means available. By imposing a blanket sealing order, Judge Allen failed to use the least restrictive means available.

7. Rule 47(B), Ohio Rules of Superintendence provides that any person aggrieved by the failure of a court to comply with the requirements of Sup. R. 44 through 47 may pursue an action in mandamus pursuant to Chapter 2731 of the Revised Code.

8. The Enquirer is aggrieved by the court's failure to comply with Sup. R. 44 through 47.

9. Upon information and belief, Judge Allen issued the Order without conducting an evidentiary hearing or making particularized findings that there was a compelling need for closure sufficient to overcome the presumption of openness. Also, Judge Allen failed to consider less restrictive alternatives to the blanket closure.

10. By failing to conduct the hearing or make the findings as described above, Judge Allen denied The Enquirer its constitutional right of access to a criminal proceeding.

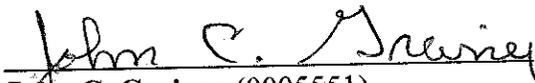
11. The Enquirer is entitled to a Writ of Mandamus as a result of Judge Allen's failure to abide by the guarantees of the United States Constitution.

**WHEREFORE**, the Enquirer requests a Writ of Mandamus ordering Judge Allen to vacate the Order.

Respectfully submitted,

*Of Counsel:*

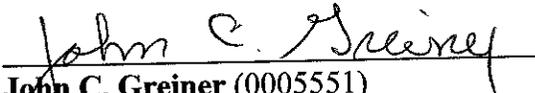
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**PRAECIPE FOR SERVICE**

TO THE CLERK:

Please issue a Summons along with a copy of this *COMPLAINT* to the Respondent identified in the caption on page one via Certified Mail, return receipt requested.

  
**John C. Greiner** (0005551)