

IN THE SUPREME COURT OF OHIO

Prasad Bikkani Appellant, Plaintiff
V.
Rotan Lee, et al Defendants-
Appellees

)
)
) **Case No. 2006-2073**
) **From Cuyahoga County Court of Appeals,**
) **Eighth Appellate District**
)
) **Case No. CA-06-088650**

Request to grant Leave to file MOTION Instanter

a) to keep the Court 6/28/2007 issued judgment entry as satisfied, pending review/appeal, and strike the 7/18/2007 filed trustee cum attorney of NEON/THCP under the name of "Notice of satisfaction" and Appellant provided further details.

b) to grant leave to file a motion to vacate vexatious litigant related judgment entries **in light of new developments of Cuyahoga County Common Pleas Court Cv04-519870**. In addition, as a Trustee cum attorney Matthew Fitzsimmons already filed a lawsuit using NEON and THCP, *NEON/THCP v. Bikkani* (8th Dist 07-628928) to declare wife and husband to be as vexatious **using cv04-519870, Exhibit S1-S2**, (just count 2 pertinent pages). The cv07-628929 trial court can determine who violated and who is vexatious in a neutral environment, without prejudice and bias, provided, **if this honorable court vacates the vexatious judgment entries against Appellant and details are inside in light of cv04-519870** which was rolled back about 3 ½ years - 44 months, to 1/16/2004 just complaint filing date and Amended Pleadings are due 9/17/2007 and Final Pre-trial was scheduled to 5/6/2008. Alternatively, this honorable court can grant a leave to file pertinent motion/brief by **Appellant's attorney** so this honorable court can consider merits and facts accordingly.

- c) to grant leave to file motion to remand the case to the trial court to proceed
- d) to grant leave to file motion to excuse Trustee cum Attorney Matthew Fitzsimmons from the case and enjoin him from NEON/THCP
- e) to grant leave to file motion to restrain trustee cum attorney from participating in any case of Appellant including in *WM Specialty Mortgage v. Bikkani* (8th Dist cv07-620252) case where abusing his clients, victims, and the court system for his pecuniary benefit and he should not be representing in any of the Appellant's cases unless he is personally a party

THCP /NEON - Defendants, % Matthew Fitzsimmons
25 West Prospect Ave, Suite 1400, Cleveland, OH 44115

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Exhibit A0: Page#, refers to 8/7/2007 filed Motion raising serious issues in cv04-519870 with A through Q Exhibits (about 450 pages of Exhibits), few related Exhibits were included in OH2006-2302 to limit papers, and when needed complete filing can be filed, until then it refers to OH2006-2302 of Exhibit A0.

JU1107: Exhibit X refers to corresponding Exhibit of June 11, 2007 filing in OH2006-2073

JU1107: P# refers to Page number June 11, 2007 filing in OH2006-2302

AU1307: Exhibit X refers to Exhibit of August 13, 2007 in OH2006-2302

Now comes, Prasad Bikkani, Pro Se, Appellant pleads with the Honorable court to grant

leave instanter:

- I. **Introduction of extraordinary recent event which affects the outcome, without providing any opportunity to interpret the judgments differently or emphasizes the importance of appeal and or need to modify the law if not appealable such events, without sanctions:**

Since the time *Miles Landing Homeowners Ass'n v. Bikkani* (8th Dist cv04-519870) case

was filed in an unusual way against defendants, many attorneys expressed reluctance to represent

in the case due to Holders involvement in material facts, or unable to even get the basic information from Plaintiff, but able to piece together some key information, AU1307: **Exhibit C9-C15**, but unable to overcome summary judgments. Due to influential MLHOA Fiduciaries' self-dealings Appellant was later forced to represent as Pro Se, AU1307: **Exhibit A0: P3**. It cost enormous time, money, and good amount of critical lifetime to crack even a bit of well-concealed facts. Upon going through extreme protection of even basic books/records by Holders, inability to get the accounting of already collected \$6,000+ of the underlying unit, even without accounting about \$7 million dollars of disbursements of MLHOA accounts, which is a subject property of cv04-519870, Appellant went through facing materially false affidavits, forged signatures, multiple established dates of a corporation to fit to each government agency including IRS, Ohio Secretary of State, AU1307: **Exhibit A0: P47**, and by using a liquidated/defunct/ bankrupt corporation, AU1307: **Exhibit C14, C41, G31**, including conversion of Units to Holders/JM Capital Ltd upon foreclosing with MLHOA/Plaintiff's name, AU1307: **Exhibit B1 – B22**.

In the mean time hundreds of unit/homeowners lost their units to holders, flipping, and conversion, AU1307: **Exhibit A0: L8-L10, P18-P22**, took place. To any attorney who represented on behalf of contesting party, MLHOA refused to provide which governing documents are being followed, if any, when was assessments/dues were approved, when and how those were informed, who formed the corporation, what happened to the collected funds were not answered but used RC 5311.18 effectively by making the victims defenseless, AU1307: **Exhibit A0: P41-P43, P47-54**.

When facts are turning up, with lot of effort even when MLHOA concealed, court was forced to abruptly cancel the 4/5/2005 scheduled hearing, and the court was forced to issue 4/6/2005 dated series of Judgment entries which contradicting from one entry to the other but

served the major purpose of MLHOA Holders, AU1307: **Exhibit A0:P1 P6 etc:** To moot the 1/18/2005 filed default judgment motion against some Holders. To that effect court simply issued a 4/6/2005 dated docket entry stating 3/26/2004 date is not in front of court there by 1/18/2005 pertinent default judgment motions are moot. It followed further events with offensively appointment of receiver on the property while the court refusing the evidentiary hearing. When opposed for ex-parte meeting still Mark Hanslik and MLHOA attorney managed on 4/21/2005 with the judge. Holders refused to show how much of Appellant paid amounts are accounted how duplicate liens are valid, etc and too court awarded the Receiver appointment to collect rent in favor of bankrupt/liquidated/defunct corporation under RC 5311.18, by superseding the Federal Bankruptcy supremacy laws.

Then appeals started based upon 30 days window of opportunity based upon which judgment entries are developing. Appeal court combined two of the appeals and had a hearing. The third appeal is related to attorney disqualification that had self-serving interests and submitted knowingly the materially falsified information, along with protective orders granted from discovery in favor of MLHOA/Fiduciaries, and under attorney-fraud exception. While the third appeal is in front of this honorable court, the MLHOA attorneys disqualified/withdrawn themselves, and the trial court entered a docket entry stating the discovery resumes upon the case return from Appeal and Attorney Keith Barton appeared as counsel to MLHOA in front of this court.

Holders start threatening unit/owners/tenants by issuing 6/7/2006, 6/20/2006, 8/25/2006 letters, AU1307: **Exhibit A0: P11, 15, 17, Exhibit J8-J11**, while 4/21/2005 appointed Receiver ignoring to do his duties to collect rent and safeguard the tenant rather than to harass and to oppress, and MLHOA/Holders abused the court system to appoint a Receiver. Appeal court in the combined appeals judgment pointed since a hearing was held on 4/21/2005, court felt

complied with requirement and sided with RC 5311.18 to have powers to MLHOA irrespective of Bankrupt/liquidated/defunct Corporation and unilateral activation by a single person by claiming a President title, AU1307: **Exhibit A0: P35**, rather than collectively with voting. However, by late 2006, Appellant discovered an ex-parte fax through Renner Management Group/Jack Renner/Michelle McCully on 4/21/2005 at 3:48 pm to judge's fax machine, AU1307: **Exhibit A0: p7, P52 Para 55**, apparently to comfort her to as if the balance is existing to the placed lien time, by altering balances, excluding big collected amount, doubling the per invoice receivable amount and too sequentially generating series of invoice numbers, AU1307: **Exhibit A0: P51, Para 51**. Appellant realized that how well self-dealings involved Fiduciary can effect the judiciary system, influence judge, and corrupt the system.

By that time facing similar situation as CV04-519870 in the instant/underlying trial court case, Trustee cum attorney with severe conflicts, **JU1107: P7, P14, P19, P44-105**, falsified affidavit submission to the court, protective orders with self-dealings, question of who is an underlying part etc which ought to be resolved through appeal, and judge should not come under cloud like in cv04-519870 through self-dealings involved Fiduciaries. Following the events in Cv04-519870, the effect of ex-parte 4/21/2005 fax that was discovered late 2006 gave no choice other than appeal the instant case to avoid similar turmoil but ended up with a different turmoil with allegations stating as if frivolous and or vexatious, in an effort to distract from actual injustice/violations.

However, the trustee cum attorney/Fiduciary of the instant case blamed appellant for cv04-519870 judgment entries, appeals court and this honorable court entries. Those judgment entries are based upon well concealment and well influence of self-dealing Fiduciaries in the trial court, and without factual knowledge to the appeal court. Such events, and twisting to the benefit of instant case self dealings Fiduciary, prejudiced the Appeal court for the instant court

appeal point of view, then that judgment was used in the trial court to dismiss the case on the day denying the continuation, and further prejudiced this honorable court and get additional sanctions. Now self dealings Fiduciary, using all these contaminated judgments against Appellant and his wife by filing a separate case in Common Pleas Court, and while sitting in an unrelated case which was orchestrated using WM Specialty Mortgage/AmeriQuest Mortgage, and in other cases.

Now, it turned out that the cv04-519870 judgment entries, which created appeals, are moot as those are corrupted through many concealments and ex-parte and other influences and to avoid certain controversies, the case was moved back to 1/16/2004 complaint level and by giving for Answer/pleadings to 9/19/2007 date. These developments are very significant and materially alters the balance into Appellant's favor, and highlights the importance of modifying the law if not appellate under the cv04-519870 or in the instant case scenarios. Though Appellant went through enormous pain and suffering to face the unusually critical Disciplinary Rule violations of self-dealing Fiduciaries, without relief, and too in the instant case ended up with other type of allegations, Appellant didn't loose hope in our great judiciary system that was founded by our great forefathers. Appellant requests this honorable court to vacate/reverse the adverse judgment entries in favor of Appellant and further discussion was followed in the next section.

Alternatively, if the court grants leave Appellant's attorney can file the Brief/Motion with clarity.

II. Issues/Motions argument:

- a) to keep the Court 6/28/2007 issued judgment entry as satisfied, pending review/appeal, and strike the 7/18/2007 filed trustee cum attorney of NEON/THCP under the name of "Notice of satisfaction" upon delaying in informing the court and upon satisfaction entry filing a notice with the kind of language he wants for a specific purpose, and to satisfy OH2006-2302 judgment, Appellant provided a cashier check, AU1307: **Exhibit R1-R2**, to NEON/THCP % Mr. Fitzsimmons, and mailed on 8/13/2007 morning additional \$50 personal check, AU1307: **Exhibit R3**, for any interest claimed and to return the balance, upon noticing a judgment lien with interest

- b) to grant leave to file a motion to vacate vexatious litigant related judgment entries in light of new developments of Cuyahoga County Common Pleas Court Cv04-519870. In addition, as a Trustee cum attorney Matthew Fitzsimmons already filed a lawsuit using NEON and THCP, *NEON/THCP v. Bikkani* (8th Dist 07-628928) to declare wife and husband to be as vexatious using **cv04-519870**, AU1307: **Exhibit S1-S2**, (just count 2 pertinent pages). The cv07-628929 trial court can determine who violated and who is vexatious in a neutral environment, without prejudice and bias, provided, if this honorable court vacates the vexatious judgment entries against Appellant and details are inside in light of cv04-519870 which was rolled back about 3 ½ years - 44 months, to 1/16/2004 just complaint filing date and Amended Pleadings are due 9/17/2007 and Final Pre-trial was scheduled to 5/6/2008. Alternatively, this honorable court can grant a leave to file pertinent motion/brief by Appellant's attorney so this honorable court can consider merits and facts accordingly.
- c) to grant leave to file motion to remand the case to the trial court to proceed
- d) to grant leave to file motion to enjoin trustee cum attorney from NEON/THCP, restrain trustee cum attorney from participating in any case of Appellant including in *WM Specialty Mortgage v. Bikkani* (8th Dist cv07-620252) case where abusing his clients, victims, and the court system for his pecuniary benefit and he should not be representing in any of the Appellant's cases unless he is a personally named party
- Now, the cv04-519870 controversial judgment entries became moot/void for which appealed where similar attorneys)/Holders' gross violations, concealment, are involved including conflicting parties/issues AU1307: **Exhibit A0: P20-P30**, like in the instant case, including with 4/21/2005 ex-parte faxes to judge with materially false information and appointed Receiver on the property under RC 5311.18 for a bankrupt/liquidated/ defunct corporation, and too altering bills/received amounts, and too without an intention of executing it all these years other than to harass and to cause other damages. In addition to the cv04-519870 going back to the complaint level, the previous filings including the 6/11/2007 filing in the instant case supports the facts. Based upon the turned up events of Cv04-519870, an Appeal to modify the law can be warranted as it is in good faith, and the late 2006 turn up of 4/21/2005 ex-parte communication/materially false ex-parte communication by self-dealing fiduciaries, resultant effect to Appellant and to the judge, similar self-dealings of Fiduciary in the instant case triggered the appeal to protect judiciary system, constitution and to modify the law.

All the five motions will be addressed collectively as they are interrelated: A) Appellant requests to keep the Court 6/28/2007 issued judgment entry as satisfied, pending review/appeal, and strike the 7/18/2007 filed trustee cum attorney of NEON/THCP under the name of "Notice of satisfaction" . B) Appellant requests the court to vacate the vexatious litigant judgments in light of cv04-519870 developments which automatically causes moot to the controversial judgment entries which caused appeals as other evidence supports and the related details are listed below. C) Appellant requests the honorable court to remand the case to the trial court to proceed by excluding Trustee cum Attorney who continued with self dealings and violated about 34 Disciplinary rules, please see 6/11/2007 filing, altered facts through materially false affidavit in September 2005 itself.

Upon going through similar experience in cv04-519870 case with commingled attorneys/Fiduciaries who twisted facts to their advantage, materially falsified information, went to extraordinary step only in the trail court level to appoint a Receiver on the property, and to influence the judge with ex-parte materially false documents etc. Without an intention of using the Receiver for the purpose Holders appointed a receiver on 4/21/2005 against Appellant's property, Holders continued to harass Appellant and tenant to cover-up their wrong doings and to use the court system for committing crimes with concealment and with bankrupt/liquidated/defunct corporation for the purpose of getting properties from hundreds of innocent victims in a neighborhood. However those Holders at least did not contest in covering up their self-dealings in the higher courts nor in the higher courts tried to twist the existing pleadings/judgment entries into their favor but left from representing the Plaintiff. A new Fiduciary came became partner with original Holders and involved with certain Self dealings, Exhibit A0, but did not tried to fabricate maliciously against Appellant or on other unit/homeowners. However, it took extra ordinary effort to bring the questionable judgments entries and ex-parte communications and

other events which caused adverse judgments to the court's attention, Exhibit A0, and the judgment entries got neutralized by switching the clock to 1/16/2004 Complaint filing date and making other pleadings moot/strike by judgment entries moot and by giving Answer pleading date to 9/19/2007.

In the instant case Appellant faced a self dealings Fiduciary who represented all the parties in the trial court at one time or the other, involved with many violations, and protective orders, including a false affidavit submission to the court in September 2005, refused to recuse even when relatively less conflicting attorney Denise Roth and his firm recused by admitting conflicts of interest. Following cv04-519870 experience where the self dealings lead to severe crisis, and upon discovery of 4/21/2005 materially false fax documentation to judge to satisfy/influence the judge was discovered in late 2006, came to the appeal court in the instant case in good faith if needed to modify the law. Like in the cv04-519870 faced with appointing a receiver on the property without evidence but using RC 5311.18 for a bankrupt/liquidated/defunct corporation, in the instant appeal faced a sudden sanctions to deter the meritorious appeal, where modification of law is needed if not appealable to avoid corruption and to grant additional powers in the trial court to the genuine judges. By coming to this honorable court, thinking that all appealable details can come into Brief rather than into the memorandum of jurisdiction, the proceeding got distracted with offensive vexatious allegations to cover-up the real facts and cv04-519870 judgment entries got twisted into self dealings Fiduciary favor and Appellant got sanctioned. Now the cv04-519870 judgment entries are moot for vexatious litigation offensive usage or those appeals are clear convincing value in favor of Appellant as the trial court noticed ultimately the facts and controversies and went back to the complaint filing era, to minimize the need to address the controversies of each phase.

Upon a receiver appointment on the property without an intention of serving the purpose and without showing merit other than RC 5311.18, and when the cv04-519870 related ex-parte altered documents came to light in late 2006; Appellant thought without the Appeal process, the trial court proceedings of the instant case can be further contaminated. At least trial court noticed the conflicts, Attorney Denise Roth disqualification by admitting that he had conflicts of interests. However, Trustee cum Attorney had much more severe conflicts and knowingly submitting materially false affidavit in an effort to discredit the victim/Appellant in the trial court. Even for the known facts the self-dealings trustee cum attorney can produce a false affidavit to the court, and having many conflicts of interests, and being a key person/party to the underlying cause/case, it is unconscionable to continue in a case as if an Attorney. Even with relatively less conflicts of interest Fiduciaries in cv04-519870 contaminated the case and at the expense of very good lifetime it was rolled back to 3 ½ years, now. At least the *Bikkani v. Lee* trial court observed improper acts, Trial court did not award sanctions against Appellant. When Appellant came to the Appeal court with good faith effort to modify the law if law allows so many violations and manipulations of a Trustee cum attorney, and Appeal court not knowing the cv04-519870 concealed facts from trial court, they fallen into trustee cum attorney tactic to make it appear as if frivolously came to Appeal and not sure what other factors influenced. However, it is an extra ordinary to an Appeal court not taking the appeal but awarding sanctions on behalf of opponent attorney and too declaring as frivolous when the statute calls for a hearing and without conducting one.

Upon getting the frivolous category judgment by Trustee cum attorney, the pressure got shifted to the trial court and perhaps best thing they could have done to yield is to close the case pending the higher court's decision and that was what happened and denied any sanctions against Appellant as closing the meritorious case with prejudice under the lack of prosecution is a big

sanction, especially by denying the continuance motion and same day dismissing the case with prejudice is to let the case to be handled by Higher courts. Trustee cum attorney Matthew Fitzsimmons still maintaining a case in the Appeal court, and that case and the trial court cases can be handled by NEON and THCP attorneys and proceeding should not get tainted further and time for Attorney General and AG/ODI coordinator Michael Igoe may have to review under what testimonials of trustee cum attorney of NEON, the THCP was transferred to NEON without the knowledge and or consent of THCP Board of trustees and whether there is any validity to Trustee Cum attorney of NEON, Attorney Matthew Fitzsimmons at the time when THCP and NEON are rivalries, and why instead of following corporate obligations hindering justice and too allowing Trustee to represent as an attorney in the court where all the parties are his clients at one time or the other and too letting him materially false affidavit, that was submitted in September 2005 in the trial court, and why encouraging IRC4941(d) forbidden Self dealings when specifically forbidden by THCP corporate governing documents, and or why violating Attorney General, AU1307: **Exhibit A0: P29**, Marc Dann's Guidance to Board of Directors, available at http://www.ag.state.oh.us/business/pubs/char/05guide_boardmembers.pdf on 8/12/2007 at 10:07am.

Coming back to the specific motions:

On August 10, 2007, Pro Se, mailed a cashier check to NEON/THCP % Matthew Fitzsimmons.

for this honorable Court judgment in OH2006-2032 in the amount of \$6,864.18, AU1307:

Exhibit R-R3, per 7/25/2007 and additional check of \$50.00, to NEON/THCP % Matthew

Fitzsimmons, incase of any interest owed, and to avoid any improper usage of judgment lien of

Appeal Court, unlike:

- a. In 2006-2073 upon mailing a personal check on 6/9/2007, court granted leave on 6/11/2007 motion to enter judgment as satisfied.
- b. On 6/22/2007 NEON/THCP (Trustee cum attorney Matthew Fitzsimmons) filed a response stating as if the check of \$7,616.03 (without specifying when the check

was submitted or whether just submitted check for cashing at that time) has not yet cleared. And further stated

”... Thus, it would be premature for the Supreme Court of Ohio to put on any Entry reflecting that the judgment has been satisfied. When and if Mr. Bikkani’s check clears and NEON and THCP receive the proceeds, they will notify the Court of such development so that the Supreme Court may put on any subsequent Order which it deems appropriate.”

- c. NEON/THCP Trustee mailed the above response on June 21, 2007 cum attorney and the court docketed it on June 22, 2007. Infact the check was submitted to the bank on June 21, 2007 and or cleared upon submission to the bank
- d. This Honorable court upon patiently waiting for the satisfaction of judgment entry go ahead from NEON/THCP, the court on its own entered a judgment entry on June 28, 2007
- e. Only on July 18, 2007, NEON/THCP filed with the court stating the check was tendered and cleared, (without specifying when) and too 6 weeks after receiving the check, and about three weeks after satisfied judgment entry was entered by the court. In an effort to modify the judgment entry language, NEON/THCP submitted the notice with their content in it and it should be declared as moot or stricken by the court, with out rewarding it by approving it to let them use it. The above events would not have happened, for a simple entry of satisfaction upon receiving the funds, if the attorney is neutral and serving the clients. The court can see, the unusual acts on this simple satisfaction issue and then can understand how many twists took place to get judgment entries from this honorable court against victim.
- f. On 3/6/2007, The Appeals court judgment was satisfied through disbursement.

03/06/07 -2,848.00 0.00 0.00 Check W/D

Check 00 60592 Disbursed 2,848.00

But besides judgment was satisfied, with self dealing interest, in a rental unit unrelated to NEON/THCP, NEON/THCP became parties in *WM Specialty Mortgage v. Vijaya Bikkani et al* (8th Dist 07-620252) that was filed on 3/30/2007. While Attorney Keith James Barton got served on behalf of Miles Landing, to date Attorney Barton did not appear/answer/plead, but NEON/THCP pleaded through Trustee cum attorney Fitzsimmons, on 4/23/2007:

04/23/2007 D AN DEFENDANT(S) NORTHEAST OHIO NEIGHBORHOOD HEALTH SERVICES INC(D4) and TOTAL HEALTH CARE PLAN INC(D5) ANSWER. MATTHEW T FITZSIMMONS 0013404

04/19/2007 D4 OT DEFENDANT(S) NORTHEAST OHIO NEIGHBORHOOD HEALTH SERVICES INC(D4) and TOTAL HEALTH CARE PLAN INC(D5) NOTICE OF APPEARANCE AND REQUEST FOR NOTICES. MATTHEW T FITZSIMMONS 0013404

The NEON/THCP Answer stated that the Appeal court judgment was satisfied, and as if NEON/THCP are unrelated to the case but as if Mr. Fitzsimmons would like to continue in the case: Besides the Appeal court judgment lien was satisfied and unrelated to the case, Attorney

Fitzsimmons would like to continue in the case, through discovery and through trial, and as if some one should pay his costs/appearance etc, attached a copy of NEON/THCP Answer by Attorney Mathew Fitzsimmons, AU1307: **Exhibit T, T3 Para 17, T4, T6**. This kind of scenario is just beyond self-dealings, unconscionable and appellant hopes that the justice can be served. If this interference with apparent self-dealings were proper, other attorneys would have done similar acts and keep on interfering with affairs of others. It is a continued harassment, keep altering the appropriate proceedings and genuine outcome of the cases, causing prejudice with their unrelated pleadings, whether the victims are represented by attorneys or otherwise and or by intimidating attorneys.

g. In violation of Cuyahoga Common Pleas court order and in violation of Appeal court's order, Holders using Attorney Stanley Stein (pretending to be as appointed Receiver of MLHOA), in 2007 filed a duplicate lawsuit to *Miles Landing Homeowners Association v. Bikkani* (8th Dist cv04-519870), for the same purpose or alleged debt, for the same unit, in the court of Trustee cum Attorney Matthew Fitzsimmons' wife's court, that too on behalf of a bankrupt/liquidated/defunct corporation in violation of Federal Supremacy laws. When Attorney Stanley Stein was appointed as Receiver on the unit on 4/21/2005 to collect rent under RC 5311.18 to a bankrupt liquidated corporation, denied the stay of execution motion. Then, instead of collecting the rent as court ruled, Holders, distributed collection letters to tenant stating car will be towed, can't walk with a dog, can't put trash into dumpster, etc, namely on 6/7/2006, 6/20/2006, 8/25/2006 by Attorney Keith Barton, AU1307: **Exhibit J8-J11**. Certain acts are not intend to pursue by holders but to scare in a way of getting property, where Hobbs' act and or pattern of corrupt activity involves among many other things, as they did to others including in *MLHOA v. First Fed Sav Bank* (8th Dist cv03-501113). With a lot of influence and effort by others, Attorney Stanley Stein filed a case using color of law in Mrs. Fitzsimmons's court which was forced to be moved to US District court, AU1307: **Exhibit V4**, while not performing the Receiver duties entrusted to him since 4/21/2005, AU1307: **Exhibit V1-V3**, and too on behalf of Bankrupt/liquidated/defunct corporation, AU1307: **Exhibit A0**. Under those circumstances, if Appellants owes to such a frivolous/ duplicate complaint, while disregarding the court orders, and under the color of law, thus the related third parties should be liable to such a judgment. Support by trustee cum attorney Fitzsimmons to file in his wife's court, his involvement in unrelated WM Specialty case with self dealings and for other improper activities, he should not gain any credit. When the instant case came to this honorable court, Mr. Fitzsimmons claimed as if he was never a party in the lower courts thus his name should be removed from the Supreme Court as a named party and this honorable court granted. It does not mean that he should be involving with improper activities. Ultimately, Appellant was forced to move the Stanley Stein case that was filed as duplicate of cv04-519870 using MLHOA to US District court with third parties.

h. Unfortunately, with self-dealings of Holders (who are controlling bankrupt liquidated and defunct) Miles Landing under the name of Association without ever disclosing books, upon collecting excessive money from Bikkanis with a false lien brought a lawsuit *Miles Landing Homeowners Assoc. v. Bikkani* (8th Dist Cv04-519870 and related appeals). Appellant contested appointment of Receiver on defendant's unit, on behalf of a bankrupt/liquidated/defunct MLHOA, which is as part of corrupt activity. Court appointed a Receiver on 4/21/2005 to collect rent and denied considering appointing a Receiver on MLHOA, which is violating Federal Supremacy laws, and Holders submitted a materially false ex-parte fax directly to judge on 4/21/2005 at 3:48

pm, to make it appear as if balance exists and to make it appear lien is valid, AU1307: **Exhibit A0: P52 Para 55, Exhibit N5-N6**. It is just one of the examples, where self-dealing Holders can corrupt the judiciary system cause injustice to victims. Evidentiary hearing was denied, and the materially influenced fax/invoice was concealed, appointed a Receiver, denied stay of receivership pending appeals. Instead of collecting rent as the Receiver appointed, holders issued threatening letters to owners/tenants stating cars will be towed, can't walk with a dog, can't dispose trash into dumpster, etc at least on 6/7/2006, 6/20/2006, 8/25/2006, AU1307: **Exhibit J8-J11**. Again in 2007, same Holders, under the name of Receiver Stanley Stein brought lawsuit in front of Ms. Fitzsimmons' court (wife of trustee cum Attorney Matthew Fitzsimmons) in Rocky River, for the same property and for the same cause, while case is already pending in Common Pleas Court under cv04-519870 which came to appeals in the past. Yet trustee cum Attorney Fitzsimmons claimed in his recent pleadings as if Rocky River court claim [in his wife's court] is a simple claim for assessments/dues and a neutral attorney wouldn't have used these disputes for his benefits, and a letter from an attorney's opinion to home/unit owners may highlight some facts, AU1307: **Exhibit U1** about MLHOA/JM Capital Ltd and more details in AU1307: **Exhibit A0**. Some of such self-dealings of NEON/THCP Holders or claims by Trustee cum Attorney Fitzsimmons were highlighted in 6/11/2007 filing while opposing his bill/judgment.

- i. Upon planning for a while and appearing in unrelated cases, *WM Specialty v. Bikkani*, under the name of NEON/THCP, Trustee cum Attorney Matthew Fitzsimmons using this honorable court granted judgment entries, filed a lawsuit in July 2007 under *NEON/THCP v. Bikkani*, wife and husband (8th Dist CV-07-628928), AU1307: **Exhibit V5**. NEON/THCP used in the pleadings to declare vexatious by citing *MLHOA v. Bikkani* (8th Dist cv04-519870) and through misleading statements rather than facts. Even it took years to the cv04-519870 trial court to understand the true intention of Holders asking to appoint a Receiver Attorney Stanley Stein to collect rent, he not collecting the rent as supposed to, but along with Holders decided to file a new lawsuit in Rocky River Municipal court on the same issues etc. As usual Trustee cum attorney Fitzsimmons supported MLHOA and that lawsuit stating it is a simple unpaid debt/assessments, even upon knowing the underlying facts and knowing these are false amounts, false collections, frivolous lawsuit and many other issues involved with MLHOA including concerted effort, AU1307: **Exhibit A0**. (To reduce paper, out of exhibits A – Q, only selected Exhibits were enclosed). The AU1307: **Exhibit A0**, that was filed in cv04-519870 brought to the attention of court key problems and court while trying to find a way to vacate all previous judgments, by a way of asking to start with ANSWER (by keeping only on or around 1/16/2004 filed Plaintiff's complaint. In order to indirectly nullify the effect of existing judgment entries, **the court notated as if only Complaint exists** with the pleadings due by 9/17/2007, and as if Defendants/Bikkani's filings are withdrawn/stricken [hopefully still court supervises the related attorney, as the evidence does not go away]. Since Appellant had an attorney an Attorney will file the pleadings. Since the facts are well concealed, hundreds of unit/homeowners already victimized through self-dealings of some Fiduciaries, it took enormous effort of Appellant, money, and years of devotion to unearth the facts especially when Holders influenced courts even in obstructing the basic collected amounts and the related entries are:

BE PRESENT OR AVAILABLE BY PHONE. FAILURE TO APPEAR MAY RESULT IN DISMISSAL OF AFFIRMATIVE CLAIMS FOR RELIEF. CLTMP 08/09/2007 NOTICE ISSUED

08/10/2007 N/A MG CMC HELD. THE FILING OF 8-7-07 IS STRICKEN. FURTHER, ALL PRIOR PLEADINGS OF DEFENDANTS BIKKANI ARE WITHDRAWN. THE PARTIES' MOTIONS TO CLARIFY THESE PLEADINGS ARE DENIED AS MOOT. DEFENDANTS' BIKKANI, NOW REPRESENTED BY COUNSEL, MAY FILE AN AMENDED PLEADING ON OR BEFORE 9-17-07. ALL DISCOVERY MUST BE COMPLETED BY 1-11-08. THE PARTIES MUST FILE ANY DISPOSITIVE MOTIONS ON OR BEFORE 2-11-08. ANY BRIEFS IN OPPOSITION MUST BE FILED ON OR BEFORE 3-11-08. REPLIES MUST BE FILED ON OR BEFORE 3-25-08. CLTMP 08/09/2007 NOTICE ISSUED

08/07/2007 D2 MO D2 JANE DOE THE UNKNOWN SPOUSE OF VIJAYA BIKKANI MOTION REQUESTING THIS HONORABLE COURT A) TO QUALIFY THE PLEADINGS AS REQUESTED BY PLTF'S ATTY THRU MOTION FILED 02-17-06. (B) TO PROCEED WITH THE DISCUSSED DISCOVERY METHODS OUTLINED DURING THE 04-14-06 HEARING. (C) TO SUPERVISE ATTY BARTON AND TO OBTAIN ANY WAIVERS FROM THE CONFLICTING PARTIES HE IS REPRESENTING INCLUDING WITH HIS ROLE AS PLTF' MLHOA'S BOOKKEEPER/ CHECKS WRITER / EMPLOYEE, TO AVOID TAINTING THE PROCEEDINGS.....(W)..... PRO SE 9999999 08/10/2007 - STRICKEN

j. NEON/THCP alleged to this court as if none of the three cv04-519870 case Appeals were in merit or taken up when in fact Appeal court combined two of the appeals together AU1307: **Exhibit A0**. Moreover, with the recent cv04-519870 decision, indirectly reversing the judgment entries or starting from the 3 ½ years ago filed complaint, NEON/THCP allegations absolutely does not have any standing thus the judgment should be reversed against victim/Appellant, to avoid further victimization.

k. Based upon the 30-day window for appeal and judgment entries within that time frame and nature of event triggered related appeal filings in cv04-519870. If a motion that was denied or a certain filing is not timely constitutes a strike, for that matter, Appellant at least won for getting granted a 60 day extension should there still a need to file Certiorari to US Supreme court, as No06A1196 docket at US Supreme Court reflects as of August 13, 2007 at 4:30 am:

No. 06A1196

Title: Prasad Bikkani, Applicant

v.

Rotan E. Lee, et al.

Docketed:

Lower Ct: Supreme Court of Ohio

Case Nos.: (2006-2302)

---Date---

-----Proceedings and Orders-----

Jun 17 2007

Application (06A1196) to extend the time to file a petition for a writ of certiorari from June 26, 2007 to August 25, 2007, submitted to Justice Stevens.

Jun 21 2007

Application (06A1196) granted by Justice Stevens extending the time

the trial court to conduct due process and decide who is vexatious and or filing frivolous pleadings and or who violated so many Disciplinary Rules and or involved with other activities. **That fairness can happen only** if this honorable court looks into the evidence especially in light of CV04-519870, AU1307: **Exhibit A0** (when needed all the related exhibits can be provided) and **vacates the existing Vexatious judgment against Appellant**. **Otherwise it influences a lot like it already effected in the community with severe prejudice in every court with further irreparable harm. On the other hand, this honorable court can provide time frame by what date an Attorney of Appellant can file appropriate pleading with this honorable court.**

- m. By looking at the claims against Vijaya Bikkani (wife of Prasad Bikkani) filed as Count 2, related two pages were attached, AU1307: **Exhibit S1-S2**, from *NEON/THCP v. Bikkani* (8th Dist cv07-628928) against her just to harass and repeatedly cited CV04-519870 case in which no pleadings by her in the trial court in about 2 years. Furthermore, upon unearthing the facts, now the cv04-519870 got scrapped into the basic complaint level. Upon key facts got unearthed, AU1307: **Exhibit A0**, the honorable cv04-519870 trial court at least attempted to neutralize the controversial judgment/entries, though the damage to the victims may not go away easily, and may the remaining issues can be slowly addressed. Appellant requests the honorable court to vacate the vexatious related judgments against Appellant in light of cv04-519870 and related appeals were used even in materially altered way. Vacating the vexatious judgment avoids among many things, avoid prejudice to defend the cv07-628928 and the case can be decided on the merits.

- n. Per JU1107: Page 33 35 states:
“Per Mr. Fitzsimmons conclusory filing of 1/11/2007 in OH 2006-2302 starting p12 and OH2006-2073 starting p7 claims as if appellant's conduct clearly rises to the level of habitual, Mr. Fitzsimmons referred to MLHOA case and indicated as if it shows Appellant engaged “...in this type of frivolous conduct.” And further concluded that Appellant has a history of harassing opposing counsel with motions to disqualify and to disbar and filing frivolous appeals. To come to this materially false conclusion without looking into the underlying fraud in the case and not mentioning that hundreds of unit/homeowners who got defrauded through MLHOA cases Mr. Fitzsimmons just served his forbidden self dealings purpose. With these materially false allegations against Appellant, Mr. Fitzsimmons improperly got sanctioned against Appellant in multiple levels including as if frivolous and as if vexatious besides Ohio statute does not support through such materially false allegations. Attorney Fitzsimmons conveniently falsified the appealable order OH2006-1786 to Ohio Supreme Court case of appointment of a Receiver under the RC 5311.18 that used a bankrupt/defunct/liquidated/DEAD corporation(s) (MLHOA/BVHA/BVCUOA), irrespective of Ohio Supreme Court taken up the case. In addition, Mr. Fitzsimmons claimed as if still Ohio Supreme Court has to rule on another Appeal. Moreover, with those false allegations under the name of Miles Landing case against Appellant, not only improperly categorized through Ohio Supreme Court 1/11/2007 vexatious motion filing in OH2006-2073, but also collected attorney fee through 5/26/2007 judgment whether that fabrication and or purported research time was listed under research to look Miles Landing cases in that case, but also billed under the instant OH2006-2302 case for 6 hours under the name of research on 12/21/2006 and as if 3

hours for each of NEON and THCP. When infact same MLHOA information was used much earlier and also in 12/6/2006 filing of OH2006-2073. As the evidence indicates through Mr. Fitzsimmons's 12/6/2006 filing in OH2006-2073, he knew the details of MLHOA cases as listed in page 3 under foot note 4, there no additional research was done on MLHOA cases to bill for 6 hours of 12/21/2006 under both NEON and THCP and it is an example of false billing and the pertinent footnote 4 states:

"Appellant has a history of harassing opposing counsel with motions to disqualify and to disbar. This is the way that he litigates. He employed the same strategy in *Miles Landing Home Owners v. Vihaya Bikkani*, et al., Case No. CV-04-519870 in the Court of Common Pleas of Cuyahoga County, by filing similar motions requesting the disqualification, disbarment, and deposition of opposing counsel. On appeal to the Eighth District, pro se plaintiff encountered final appealable order problems. *Miles Landing Homeowners Association v. Bikkani*, Slip Copy, 2006 WL 178 1226 (Ohio App. 8 Dist.), 2006-Ohio-3328. The Supreme Court of Ohio also declined jurisdiction to hear the case (Case No. 2005-1786)."

Trustee cum attorney Fitzsimmons's 1/11/2007 filing of OH2006-2302 Page 12 states in part:

"...appellant filed three appeals with the Eighth District -- all of which were dismissed for lack of final appealable orders. See, *Miles Landing Homeowners Ass'n v. Bikkani* (8th Dist. June 29, 2006), 2006 WL 1781226, 2006-Ohio3328 (CA-05-863356 and CA-05-86942), and CA-05-86747 which is not reported..."

Similarly, in 1/11/2007 filing of OH2006-2703, Mr. Fitzsimmons filed starting last para of Page 7:

"...Appellant also repeatedly filed frivolous appeals with the Eighth District and Supreme Court in that case. During a four-month period in that case, appellant filed three appeals with the Eighth District -- all of which were dismissed for lack of final appealable orders. See, *Miles Landing Homeowners Ass'n v. Bikkani* (8th Dist. June 29, 2006), 2006 WL 1781226, 2006-Ohio3328 (CA-05-863356 and CA-05-86942), and CA-05-86747 which is not reported..."

Trustee cum attorney Fitzsimmons knew that he materially falsified the information as habitual and as listed other scenarios under hundreds of counts, by stating that

"all of which were dismissed for lack of final appealable orders. See, *Miles Landing Homeowners Ass'n v. Bikkani* (8th Dist. June 29, 2006), 2006 WL 1781226, 2006-Ohio3328 (CA-05-863356 and CA-05-86942)..."

Infact the above quoted case was appealable and even oral hearings were conducted by the appeal court, though they gave priority to Ohio RC 5311.18 over federal supremacy laws that involved bankrupt chapter 7/liquidated/defunct/DEAD MLHOA/BVHA/BVCUOA corporation(s) and Ohio supreme court declined jurisdiction stating lack of interest/priority.

Moreover, trustee cum attorney Fitzsimmons **knowing** that Ohio Supreme Court already made decision by 12/27/2006, in his 1/11/2007 filing of OH2006-2073 p8 stated as if the "...Supreme Court has not yet accepted or dismissed...", to make it appear as if Appellant's MLHOA Supreme court appeals are pending:

“...On September 11, 2006, appellant filed a Notice of Appeal with the Supreme Court with regard to the Eighth District's Orders in Case Nos. CA-05-863356 and CA-05-86942. The Supreme Court has not yet accepted or dismissed that appeal. The similarities between appellant's conduct in Miles Landing and this case are remarkable: defamatory and unsubstantiated accusations, outlandish claims, motions to disqualify and to disbar opposing counsel, and improper appeals of orders that are patently not final and appealable...”

Irrespective of how well Trustee cum attorney Fitzsimmons interpreted the facts of MLHOA case to his advantage all his arguments against Appellant using MLHOA case should be null and void, the above content is only portion of his effort in taking advantage of MLHOA in convincing as if Appellant is frivolous and vexatious, in his continued effort to abuse the court system and to get benefited with severe violations and forbidden self dealings. The above his arguments now null and void due to the reason that at last Appellant prevailed in neutralizing the Cv04-519870 judgments upon confirming the severe effect of materially false documents submission to the court along with ex-parte communications, etc. The attorneys who committed such acts during that time were already left, didn't attempt to falsify the appeal/Supreme court proceedings, and the judgments became moot by rolling the date back to 1-16-2004 complaint filing date. Where as in the instant case, the offending trustee cum attorney continuing and using higher courts for his continued effort and keep on punishing the victim. If needed all the points trustee cum attorney Fitzsimmons made points using MLHOA cases for his advantage, irrespective of how well misquoted the facts, can be listed and but those points are no value at this stage as the judgments are moot, and he should not be having any standing to keep on pounding on the victim. Appellant is pleading with this honorable court to reverse the decisions in favor of Appellant, remand the case to the trial court to proceed on the merits and excuse trustee cum attorney from the instant case and already about 246 professional violations were listed in June 11, 2007 filing, Ju1107: p44-105, and if needed will list the remaining violations which goes beyond thousand, and he should be enjoined from NEON/THCP from any further self dealings, and he should be restrained

from victims' cases like in *WM Specialty Mortgage/AmeriQuest v. Bikkani* (8th Dist cv07-620252) using NEON/THCP to his self-serving goals, unless he is personally a party in a case.

III. CONCLUSION:

WHEREFORE, Appellant requests the honorable court to keep the Court 6/28/2007 issued judgment entry as satisfied, pending review/appeal, and strike the 7/18/2007 filed trustee cum attorney of NEON/THCP under the name of "Notice of satisfaction". Appellant pleads with this honorable court to vacate the vexatious litigant entries, as the cv04-519870 judgment entries are moot as it is taking back the case to the 1/16/2004 filed complaint level. Without much devotion to the cause, Appellant would not have discovered the well concealment, and besides many unit/homeowners already lost their units/homes over several years hopefully some remedy can be created by courts if once everything was proven. It high lights the fact that it took years to prove self dealing attorneys/Fiduciaries involvement effect, who even manipulates the outcome with ex-parte meetings and ex-parte fax communications to judge(s) with materially false information in an effort to appoint a Receiver on the property even without having an intention of serving the purpose of appointing a Receiver. With this horrible experience, upon finding in late 2006, the 4/21/2005 at 3:48pm that was sent ex-parte with absolutely falsified information by Holders, upon already knowing that Trustee cum Attorney Matthew Fitzsimmons submitted false affidavit to the court in September 2005 itself, having severe conflicts of interest and worst than cv04-519870 besides his self-dealings, Appellant got very concerned about the judiciary process contamination by self dealing Fiduciaries to cover up facts, and came to Appeal court at least to save that ordeal in cv05-566249. Besides Attorney Denise Roth disqualifying himself and his firm by admitting the conflicts, Attorney Matthew Fitzsimmons pursued vexatiously to cover-up constitutionally forbidden conflicts, which are created for a good purpose to avoid disasters like in cv04-519870. Instead of realizing the acts committed by Mr. Fitzsimmons, Mr. Fitzsimmons

got declared as if Appellant is vexatious, by falsifying facts and by using cv04-519870, as if the harm that was caused by him is not enough and by thinking that about half a dozen attorneys who represented various parties in the instant case trial court are not smart enough to pursue after the victim/Appellant (though they are silent so far in exposing Mr. Fitzsimmons's acts) but he himself having very severe conflicts of interests with all the parties, concerned that the *Bikkani v. Lee* (8th Dist cv05-566249) to the judge. It is unfortunate that Appellant has to go through great ordeal for the unusual tactics by Holders but never left hope on the judiciary system and seeing some results though lost valuable time, money, earnings, and other things.

The facts about NEON/THCP related holders, serious acts and self-dealings like in AU1307: **Exhibit A0** (only selected exhibits were included when needed all the Exhibits can be provided, about 450 pages) could be highlighted in the NEON/THCP initiated case too to get justice done. Appellant requesting the honorable court to vacate vexatious litigant judgment entries, as the allegations are false and falsely manipulated out of CV04-519870 and now whatever those cv04-519870 judgment entries are moot/void as the case started from 1/16/2004 complaint level. Some of the fiduciaries who manipulated facts in cv04-519870 or who involved on 4/21/2005 were long gone in cv04-519870 when Appellant pursued to this honorable court, and at least they did not vexatiously pursue vexatious allegations against Appellant. The AU1307: **Exhibit A0** did not contain many acts of past MLHOA attorneys but highlighted the current attorney Keith Barton who contaminating with severe conflicts and highlighted the court to supervise.

Where as Trustee cum attorney Fitzsimmons not only that caused great harm to appellant, counted how many times Appellant asked in the trial court to excuse him from contaminating the proceedings, but when the Appellant discovered the materially false ex-parte communications fax of 4/21/2005 in cv04-519870 which was used for purported appointment of Receiver and too

through which legalized the rights to a bankrupt/liquidated/defunct corporation at expense of victim/Appellant and to against Federal Supremacy laws; Appellant knew that justice can not be served while violating several violations or constitution, about 34 Disciplinary Rules, **JU1107: P44**, about 30 Conflicting parties/issues by a Trustee of an alleged non-profit corporation that too who orchestrated the conversion of THCP into NEON along with Holders and against THCP trustees and to conceal further he represents both the THCP and NEON which concealed all the facts and appointed Receiver to extort further by Similarly, Appellant requests this honorable court to remand the case to the trial court without having Mr. Fitzsimmons presence. Even to date Trustee cum attorney Fitzsimmons claiming as if MLHOA/Holders are innocent for the connections he had, while claiming at times as if no relationship with MLHOA. Appellant is not sure for what purpose and with controversies Attorney Fitzsimmons filed bills for reading cv04-519870 and claimed in the case filed on behalf of self dealing/controlling corporations, NEON/THCP, as if MLHOA Holders are right. Unfortunately, for his litigation he did research and billed the victim through this court. The justice can be served with neutral environment without prejudice and bias only if this honorable court vacates the vexatious litigant judgments, which are based upon false cv04-519870 information which are no longer valid irrespective of even those facts were not altered with a different kind of interpretation. In addition, Appellant requests the court to remand the case to trial court without Attorney Matthew Fitzsimmons as pleaded originally, and perhaps Disciplinary counsel should investigate. A quarter century ago when this honorable court ruled, *Bernbaum v. Silverstein* (1980) 62 Ohio St 2d 445, 406 N.E.2d 532, AU1307: **Exhibit A0: P7**, that interlocutory appeals on no disqualification of attorney as if non appealable, it was under the presumption that Disciplinary counsel can investigate, and even judge Fuerst disqualified an attorney and his firm and upheld by Appeal court in the past, AU1307: **Exhibit M40**, and in comparison with that the MLHOA case or instant case involved

with many folds of violations. In the recent years, even Disciplinary Counsel does not involve until the case get wrapped up. It gave additional incentive to few attorneys to pound the victims so that their record appears good but at the expense of judiciary system and community. The trustee cum attorney who controls corporations, improperly attending/interfering with business affairs of victims, using the satisfied judgment getting into any case and pretending to be represented by a non-interested NEON/THCP so that through forbidden self-dealings can extract funds from victims, can intimidate victims/attorneys and at the end corporation pays too as no checks and balances when self dealing person controls a nonprofit corporation and totally disregards DR violations and the Attorney General's guidelines for the nonprofit corporations. Furthermore, it ended up abusing the judiciary system and altering the proceedings for their advantage at the expense of victims whether represented by attorneys or not. Once again Appellant requests this honorable court to enjoin Trustee cum attorney Fitzsimmons from NEON/THCP and from the case and remand the case to the trial court. Alternatively, requests this honorable court to grant leave to file comprehensive filing by Appellant's attorney.

Respectfully submitted,

Prasad Bikkani, Pro Se, Plaintiff
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(440) 808-1259, Prasadbabu@aol.com

Certificate of Service

Appellant is personally mailing a copy of the foregoing by U.S. mail on 13th day of August 2007 to Mr. Fitzsimmons.

Prasad Bikkani, Pro Se, Plaintiff