

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.,  
GREGORY T. HOWARD

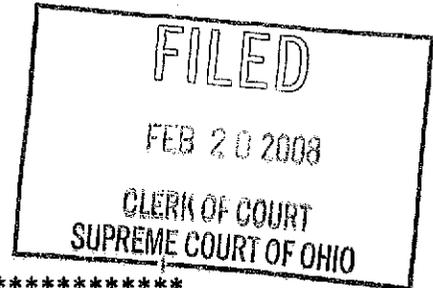
Case No. 03-1572  
Trial Court Case No. 97AP-860

Appellant,

-vs-

SEAWAY FOOD TOWN, INC., et al.,

Appellees.



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APPLICATION FOR LEAVE TO DECLARE THE ACTS OF THE FRANKLIN COUNTY COURT OF COMMON PLEAS OR JUDGE BENDER OF THE FRANKLIN COUNTY COURT OF COMMON PLEAS, SUP. CT PRAC. R. XIV, §5 AND OHIO REVISED CODE §2323.52 REGARDING VEXATIOUS LITIGATORS TO BE UNCONSTITUTIONAL AND TO ISSUE A DECREE ENJOINING THEIR ENFORCEMENT BECAUSE THEY ARE IN COMPLETE DEFIANCE OF THE CONSTITUTIONAL AUTHORITY SET FORTH IN ARTICLE 1, §16 OF THE OHIO CONSTITUTION, THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND AS ENUNCIATED BY THE UNITED STATES SUPREME COURT IN *MARBURY V. MADISON*, 1 CRANCH 137, 170, 2 L. ED. 60, PRESENTED TO CHIEF JUSTICE THOMAS J. MOYER OF THIS COURT FOR CONSIDERATION, *INSTANTER*

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The Appellant moves this Court for leave to declare the acts of the Franklin County Court of Common Pleas or Judge Bender of the Franklin County Court of Common Pleas, in *Howard v. Supreme Court of Ohio*, Case No. 2005-0398, Sup. Ct. Prac. R. XIV, Sec. 5 and Ohio Revised Code Sec. 2323.52 regarding vexatious litigators to be unconstitutional and to issue a decree enjoining their enforcement because they are in complete defiance of the constitutional authority set forth in Article I, Sec. 16 of the

Ohio Constitution, the Fourteenth Amendment of the United States Constitution and as enunciated by the United States Supreme Court in *Marbury v. Madison*, 1 Cranch 137, 170, 2 L. Ed. 60 (1803), *instanter*. Appellant has been previously declared a vexatious litigator and is required to seek leave to file any pleading. The compelling reasons for this application are set forth in the attached Proposed Motion. There are reasonable grounds for the instant motion and this motion is not being interposed for the purposes of abuse of process of this Court.

**MOTION TO DECLARE THE ACTS OF THE FRANKLIN COUNTY COURT OF COMMON PLEAS OR JUDGE BENDER OF THE FRANKLIN COUNTY COURT OF COMMON PLEAS, SUP. CT PRAC. R. XIV, §5 AND OHIO REVISED CODE §2323.52 REGARDING VEXATIOUS LITIGATORS TO BE UNCONSTITUTIONAL AND TO ISSUE A DECREE ENJOINING THEIR ENFORCEMENT BECAUSE THEY ARE IN COMPLETE DEFIANCE OF THE CONSTITUTIONAL AUTHORITY SET FORTH IN ARTICLE 1, §16 OF THE OHIO CONSTITUTION, THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND AS ENUNCIATED BY THE UNITED STATES SUPREME COURT IN *MARBURY V. MADISON*, 1 CRANCH 137, 170, 2 L. ED. 60, (1803)**

This Motion constitutes the undersigned proposed Motion. Appellant is seeking to have this Court to declare the acts of the Franklin County Court of Common Pleas or Judge Bender of the Franklin County Court of Common Pleas, in *Howard v. Supreme Court of Ohio*, Case No. 2005-0398, Sup. Ct. Prac. R. XIV, Sec. 5 and Ohio Revised Code Sec. 2323.52 regarding vexatious litigators to be unconstitutional and to issue a decree enjoining their enforcement because they are in complete defiance of the constitutional authority set forth in Article I, Sec. 16 of the Ohio Constitution, the Fourteenth Amendment of the United States Constitution and as enunciated by the United States Supreme Court in *Marbury v. Madison*, 1 Cranch 137, 170, 2 L. Ed. 60 (1803), *instanter*, so that this Court can properly consider his Application for leave. Further

because this Court and the Franklin County Court of Common Pleas has failed to adjudicate various meritorious claims of the Appellant. To the extent, there are pending motions in each court that Appellant seeks to have a due process hearing on. There are reasonable grounds to allow this action to proceed.

Since one of the pending motions that Appellant seeks to have a due process hearing is to have this Court disqualify itself from these proceedings. Further since that is one of the issues, Appellant's case would have to be transferred from this Court to the United States Supreme Court for proper consideration.

The reason for the declaration is that Chief Justice John Marshall declared that in any conflict between the Constitution and a law passed by Congress, the Constitution must always take precedence. As a result, in *Marbury v. Madison*, 5 U.S. 137 (1803), the Court declared for the first time, an act of Congress unconstitutional, thus establishing the doctrine of judicial review. Accordingly, this Constitutional doctrine gives this court the power to declare Section 2323.52 of the Ohio Revised Code and S. Ct. Prac. R. XIV, §5(B), to be unconstitutional and to annul the legislative or executive acts. Therefore, the Ohio Constitution Article I, Section 16 and the United States Constitution Fourteenth Amendment must take precedence in the instant matter and this Court must declare the acts, rule or statute to be unconstitutional. Hence, this Court must judicially review the Appellant's federal or state constitutional claims and declare Section 2323.52 of the Ohio Revised Code and S. Ct. Prac. R. XIV, §5(B), to be unconstitutional and annul the state officials or legislative or executive acts or otherwise issue a decree enjoining the enforcement of the said Statute or Rule.

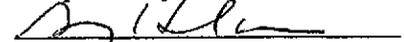
Moreover, S.Ct. Prac. R. XIV, §5 and R.C. 2323.52 came into conflict with the Ohio Constitution, Article I, Section 16 and Fourteenth Amendment of the United States Constitution when this Court and the Franklin County Court of Common Pleas deprived the Appellant of due process of the law and equal protection on the issues at question.

Additionally, Appellant informs this Court that on June 21, 2007 he filed suit in the United States District Court for the Southern District of Ohio against this Court, the Franklin County Court of Common Pleas and the Franklin County Court of Appeals (alleging that this Court and the FCCP and FCCA violated his rights by depriving him of his Fourteenth Amendment rights to due process and equal protection). *Howard v. Ohio Supreme Court, et al.*, U.S.D.C S.D. Ohio Case No. 02:07-cv-514; (Doc. No. 176). On January 14, 2008, the case was improperly dismissed by Judge Marbley. (Doc. No. 193). That Appellant has taken an appeal from Judge Marbley's defective order to the Sixth Circuit Court of Appeals on February 13, 2008 (Doc. No. 206) and has requested other appropriate relief. (Doc. Nos. 195-209).

WHEREFORE, Appellant respectfully requests that this Court declare the acts of the Franklin County Court of Common Pleas or Judge Bender of the Franklin County Court of Common Pleas, in *Howard v. Supreme Court of Ohio*, Case No. 2005-0398, Sup. Ct. Prac. R. XIV, Sec. 5 and Ohio Revised Code Sec. 2323.52 regarding vexatious litigators to be unconstitutional and to issue a decree enjoining their enforcement because they are in complete defiance of the constitutional authority set forth in Article I, Sec. 16 of the Ohio Constitution, the Fourteenth Amendment of the United States Constitution and as enunciated by the United States Supreme Court in *Marbury v. Madison*, 1 Cranch 137, 170, 2 L. Ed. 60 (1803), *instanter*.

There are reasonable grounds for the instant motion and this motion is not being interposed for the purposes of abuse of process of this Court.

Respectfully submitted,



Gregory T. Howard  
P.O. Box 3096  
Toledo, Ohio 43607-0096  
Telephone: (419) 450-3408

Relator-Appellant, Pro-se

PROOF OF SERVICE

This is to certify that a copy of the foregoing of Gregory T. Howard was sent via ordinary U.S. Mail or via facsimile this 20<sup>th</sup> day of February, 2008 to:

(419) 247-1777  
Eastman & Smith, Ltd.  
C/O Thomas A. Dixon, Esq.  
One Seagate, 24<sup>th</sup> Floor  
Toledo, Ohio 43699-0032

(614) 752-2538  
Ohio Attorney General Office  
William R. Creedon, Esq.  
150 East Gay Street, 22<sup>nd</sup> Floor  
Columbus, Ohio 43215

(614) 466-9354  
Governor Ted Strickland  
77 High Street, 30<sup>th</sup> Floor  
Columbus, Ohio 43215-6117

(614) 728-7592  
Assistant Attorney General  
Kent M. Shimeall, Esq.  
State Office Tower  
30 East Broad Street, 16<sup>th</sup> Floor  
Columbus, Ohio 43266-0410

The Federal Trade Commission:  
Privacy-Steering-Committee  
Federal-Trade-Commission  
600-Pennsylvania-Avenue, N.W.  
Washington, DC-20580

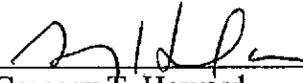
Office of the Ohio Senate  
Fax: (614) 644-5208

James G. Carr, Chief Judge-Faxed to 419.213.5563

Attn: Deputy Director, Office of the Executive Director  
Re: Eastman & Smith, et al.  
State of Ohio Office of the Attorney General Complaint #: 327061 & 330421  
Federal Trade Commission Complaint # 10010756, 10299071 & 10651814  
Comptroller of the Currency #685430-(713) 336-4301

Faxed to telephone: (614) 469-5240  
Assistant United States Attorney  
Deborah F. Sanders for Southern District of Ohio,  
303 Marconi Boulevard, Suite 200,  
Columbus, Ohio 43215-2401

(614) 462-6012  
Patrick J. Piccininni  
Assistant Prosecuting Attorney  
373 South High Street, 13<sup>th</sup> Floor  
Columbus, Ohio 43215

  
\_\_\_\_\_  
Gregory T. Howard  
Appellant-Claimant, pro-se

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

FILED  
COURT OF APPEALS  
TENTH APPELLATE DISTRICT  
2008 JAN -9 PM 2:56  
CLERK OF COURTS

State of Ohio ex rel. Gregory T. Howard, :

Relator, :

v. :

No. 07AP-1085

Ohio Industrial Commission of Ohio, :

(REGULAR CALENDAR)

Administrator of the Ohio Bureau of :

Workers' Compensation and Franklin :

County Court of Common Pleas, :

Respondents. :

MAGISTRATE'S ORDER

On December 13, 2007, relator filed an application for leave to file a complaint for a writ of mandamus instanter because relator has been declared a vexatious litigator and is required to seek leave to file any complaint. However, because relator has not filed a proposed complaint, this court cannot determine whether there are reasonable grounds to allow his original action to proceed. Further, although relator purports to have filed three exhibits with his application, he has not done so.

Therefore, relator is ordered to file a proposed complaint with this court no later than January 18, 2008, along with any exhibits so that this court can properly consider his application.

  
\_\_\_\_\_  
MAGISTRATE

EX. "1"