

ORIGINAL

**IN THE SUPREME COURT OF OHIO**

**NORTHEAST OHIO NEIGHBORHOOD  
HEALTH SERVICES, INC., et al.** )

**Plaintiffs-Appellees,** )

**v.** )

**PRASAD BIKKANI, et. al.** )

**Defendants-Appellants.** )

**CASE NO.: 10-0993**

**ON APPEAL FROM COURT  
OF APPEALS EIGHTH JUDICIAL  
DISTRICT CASE NO. C.A. 09-094159**

**(CUYAHOGA COUNTY COURT OF  
COMMON PLEAS  
CASE NO. CV-07-628928)**

---

**APPELLANTS' MEMORANDUM IN SUPPORT OF JURISDICTION**

---

Kevin J. Breen, Esq. (#0034670)  
3500 West Market Street, Suite 4  
Fairlawn, OH 44333  
Telephone: (330) 666-3600  
Facsimile: (330) 670-6556  
Email: [kevin.j.breen@gmail.com](mailto:kevin.j.breen@gmail.com)

Attorney for Appellants  
Prasad Bikkani and  
Vijaya Bikkani

Matthew T. Fitzsimmons, Esq.  
Nicola, Gudbranson & Cooper, LLC  
Landmark Office Towers  
Republic Building, Suite 1400  
25 West Prospect Avenue  
Cleveland, OH 44115  
Telephone: (216) 621-7227  
Facsimile: (216) 621-3999  
Email: [fitsimmons@nicola.com](mailto:fitsimmons@nicola.com)

Attorney for Appellees  
Northeast Ohio Neighborhood  
Health Service, Inc. and  
Total Health Care Plan, Inc.

**FILED**  
JUN 07 2010  
CLERK OF COURT  
SUPREME COURT OF OHIO

## TABLE OF CONTENTS

	<u>PAGE</u>
1. EXPLANATION OF WHY THIS CASE IS OF GREAT OR PUBLIC INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION	1-3
2. STATEMENT OF CASE AND FACTS	3-6
3. ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW	7-12
 <b>Proposition of Law No. 1</b>	 7-8
<b>The designation of a person as a vexatious litigator requires a determine that such person engaged in a pattern of vexatious conduct and a single action or incident of such conduct is insufficient to support the designation as a person as a vexatious litigator under O.R.C. § 2323.52.</b>	
 <b>Proposition of Law No. 2</b>	 9-10
<b>Trial courts have no authority to amend, modify or limit the restrictions imposed upon declared vexatious litigators with respect to instituting or continuing proceedings in Ohio courts.</b>	
 <b>Proposition of Law No. 3</b>	 11-12
<b>The restrictions imposed upon persons designated “vexatious litigators” under O.R.C. § 2323.52 applies to individuals acting <i>pro se</i>. Those restrictions do not apply to persons so designated who are now proceeding through counsel.</b>	
4. CONCLUSION	12
5. CERTIFICATE OF SERVICE	13

6. APPENDIX

14

1. September 25, 2009 Journal Entry declaring Prasad Bikkani and Vijaya Bikkani as vexatious litigators in the case captioned **Northeast Ohio Neighborhood Health Services, Inc., et. al. v. Prasad Bikkani, et. al.** case no. CV-07-628928 (Sutula, J.).
2. A January 4, 2010 Journal Entry dismissing the appeal *sua sponte* from the Court of Appeals of Ohio, Eighth District COA No. 94159.
3. List of vexatious litigators dated June 3, 2010 from the Supreme Court of Ohio.
4. March 8, 2010 Entry from the Supreme Court of Ohio, **In re application to appeal of Kevin Breen as attorney for Prasad Bikkani.**
5. August 26, 2008 Entry from the Supreme Court of Ohio *sua sponte*, striking the notice of appeal and memorandum in support of jurisdiction.

**1. EXPLANATION OF WHY THIS CASE IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION.**

On September 25, 2009 Appellants Prasad Bikkani and his wife Vijaya Bikkani were declared vexatious litigators within the meaning of O.R.C. § 2323.52 by the Court of Common Pleas of Cuyahoga County, Ohio in the case captioned, **Northeast Ohio Neighborhood Health Services, Inc., et. al. v. Prasad Bikkani, et. al.** case no. CV-07-628928 (Sutula, J.) A copy of the Court's Journal Entry dated September 25, 2009 is appended hereto (**App. 1**). Appellants notice of appeal of the September 25, 2009 Journal Entry to the Court of Appeals, Eighth Appellate District, was dismissed *sua sponte*. No reason or explanation was provided by the Court of Appeals. (**App. 2**).

The designation of Appellants as "vexatious litigators" is based upon essentially **two** (2) lawsuits. In the first, Appellant Prasad Bikkani, acting *pro se* sued his former employers for wrongful termination. **Prasad Bikkani v. Rotan E. Lee, et. al.**, case no. CV-05-566249, Court of Common Pleas, Cuyahoga County, Ohio. Mr. Bikkani pursued appeals of adverse rulings in that case to the Eighth District Court of Appeals, the Supreme Court of Ohio and the United States Supreme Court, also on a *pro se* basis.

The only other action is one in which the Bikkanis were sued as Defendants by a homeowners association seeking to collect past due condominium maintenance fees. That case is captioned, **Stanley E. Stein, Receiver for Miles Landing Homeowners Association v. Prasad Bikkani, et. al.**, case no. 07- CV-370 Rocky River Municipal Court, (Congeni-Fitzsimmons, J). In the **Miles Landing** case, Appellants initially acted *pro se* but later retained an attorney (not the undersigned). Since the vexatious litigator statute, O.R.C. § 2323.52 pertains only to actions taken by litigants acting on a *pro se* basis, the **Miles Landing** case

should have had no bearing on whether the Bikkani are designated “vexatious litigators”. Moreover, filings in federal court are categorically beyond the scope of the Ohio statute and likewise have no bearing on the designation as a “vexatious litigator”. Carr v. Riddle, 136 Ohio App.3d 700, 704 (8<sup>th</sup> App. Dist. 2000); Central Ohio Transit Auth. v. Timson, 132 Ohio App.3d 41 (1998).

Can a person in Ohio be designated a vexatious litigator for actions taken in one or two lawsuits or proceedings? The trial court answered this question in the affirmative. (See, App. 1 @ 2). Appellants submit that this conclusion by the trial court which the Eighth District Court Appeals refused to examine in contrary to the language of the statute which describes a “vexatious litigator” as, “...any person who has **habitually, persistently, and without reasonable grounds** engaged in vexatious conduct in a civil action or actions.” O.R.C. § 2323.52(A)(3). (Boldface added).

Another important question and one which raises constitutional equal protection considerations is what are the limitations imposed on one designated a “vexatious litigator”. According to this Court’s website there are approximately 82 individuals who have been declared vexatious litigators in Ohio. However, many of the persons so designated have limitations and restrictions only as to which court the vexatious litigator appears in. Other limitations relate to types of claims made or claims against specific individuals. Despite these varied restrictions, nothing in the vexatious litigator statute provides for such limitations as to particular courts in Ohio, types of claims made or identity of defendants named in a lawsuit. To the contrary, the statute appears to require that the person so designated as vexatious refrain from instituting or continuing any legal proceedings in the court of claims or in the court of common pleas, municipal court or county court without first obtaining leave of that court. O.R.C. §

2323.52(D)(1)(a),(b). Despite this, some individuals designated as “vexatious litigators” have far fewer restrictions than others. The designation of Appellants has been applied to include all courts, all types of claims, and all defendants (**App. 3**).

Finally, if a person designated as vexatious subsequently acts through counsel rather than as a *pro se* litigant, it is necessary to obtain leave of court before proceeding through counsel? This Court has variously and inconsistently answered this question. On March 8, 2009, this Court stated, in part, “...The order declaring Prasad Bikkani a vexatious litigator does not apply to counsel representing Bikkani. Breen, as a licensed attorney, may file a notice of appeal on behalf of Bikkani, so long as it complies with the Supreme Court Rules of Practice”. **In Re: Application to appeal of Kevin Breen as attorney for Prasad Bikkani**, Entry filed March 8, 2010 (**App. 4**). Previously, this Court struck a notice of appeal filed on behalf of Mr. Bikkani by the same undersigned counsel for failure to first obtain leave of court to proceed. See, **Prasad Bikkani v. Rotan E. Lee, et. al.**, case no. 2008-1667, Entry filed August 26, 2008 (**App. 5**).

While this Court’s most recent pronouncement on April 22 extends the time by 45-days to file a notice of appeal and memorandum in support of jurisdiction of the January 4, 2010 Court of Appeals decision and implicitly supports the March 8 Entry rather than the Entry of August 26, 2008, Appellants submit that this Court should directly resolve this conflict and hold that a previously declared vexatious litigator, now acting through counsel, is **not** required to obtain leave of court before proceed. For these reasons, this Court should take this case as one of public and great general interest and involving a substantial constitutional question.

## **2. STATEMENT OF THE CASE AND FACTS.**

Prasad Bikkani and his wife Vijaya Bikkani were sued by Mr. Bikkani's former employers Northeast Ohio Neighborhood Health Services, Inc., ("NEON") and Total Health Care Plan, Inc. ("THCP") to declare the Bikkanis "vexatious litigators" under O.R.C. § 2323.52. The case proceeded to a two day bench trial on September 14 and 15, 2009. On September 25, 2009 the trial court issued a Journal Entry declaring Prasad Bikkani and Vijaya Bikkani to be vexatious litigators and prohibiting them from instituting or continuing any legal proceedings in any court in Ohio without first obtaining leave of the applicable court. The Entry states that it is in force indefinitely against both Prasad Bikkani and Vijaya Bikkani, (**App. 1**).

Mr. Bikkani was employed as Vice President of Information Services and Information Technology for nearly five (5) years until his employment was terminated in June 1999. Mr. Bikkani is of Indian ancestry. Approximately 85% of the employees at THCP and NEON were African-American. Mr. Bikkani was a shared employee of both THCP and NEON. THCP operated as a subsidiary of NEON and was a Medicaid HMO. THCP became insolvent and was placed into rehabilitation by the Ohio Department of Insurance. Despite the fact that Mr. Bikkani was by far and away the most and perhaps only competent computer software engineer at THCP and NEON, he was summarily fired. The surrounding facts of this circumstance are already before this Court in another pending appeal. **Prasad Bikkani v. Rotan E. Lee, et. al.**, case no. 10-0535 (Supreme Court of Ohio). See, Appellants Memorandum in Support of Jurisdiction filed March 25, 2010 @ 3-7). In the interests of brevity, those facts are incorporated herein by reference.

The complaint filed in the trial court in this case is based on the single fundamental myth, that Mr. Bikkani filed seven (7) separate and distinct lawsuits and actions against NEON and

THCP labeled Bikkani One (1) through Bikkani Seven (7) in the complaint.<sup>1</sup> Bikkani One refers to Bikkani's wrongful termination action against NEON and THCP, his former employers. The wrongful termination claim was only dismissed by the trial court as a sanction for discovery violations, not on the merits of Mr. Bikkani's claims of discrimination and wrongful termination.

Bikkani Two through Bikkani Five as well as Bikkani Seven involve appeals or attempted appeals to the Eighth District Court of Appeals, The Supreme Court of Ohio and the United States Supreme Court of various rulings made in Bikkani One and subsequent reviewing courts. These are not individual discrete actions as Plaintiffs suggest and demonstrate no "habitual or persistent" conduct against them, a threshold requirement under the vexatious litigator statute.

The remaining action, Bikkani Six is an action filed by Miles Landing Homeowners Association against Prasad Bikkani and Vijiaya Bikkani seeking to collect past due

- 
- <sup>1</sup> 1. **Prasad Bikkani v. Rotan E. Lee, Esq., et al.**, Case No. CV 05 566249, in the Cuyahoga County Court of Common Pleas ("Bikkani One");
2. **Prasad Bikkani v. Rotan E. Lee, Esq., et al.**, Case No. CA-06-088650. in the Eighth District Court of Appeals ("Bikkani Two");
3. **Prasad Bikkani v. Rotan E. Lee, Esq., et al.**, Case No. 2006-2073, in the Supreme Court of Ohio ("Bikkani Three");
4. **Prasad Bikkani v. Rotan E. Lee, Esq., et al.**, Case No. 2006-2302, in the Supreme Court of Ohio ("Bikkani Four");
5. **Prasad Bikkani v. Rotan E. Lee, Esq., et al.**, Case No. CA-07-089269, in the Eighth District Court of Appeals ("Bikkani Five");
6. **Stanley E. Stein, Receiver for Miles Landing Homeowners Association v. Prasad Bikkani, et al.**, Case No. 07 CV 370, in the Rocky River Municipal Court ("Bikkani Six");
7. **Prasad Bikkani v. Rotan E. Lee, Esq., et al.**, Case Nos. 06A11996 and 07271, in the Supreme Court of the United States ("Bikkani Seven").

condominium maintenance fees. However, the Bikkanis' were represented in that action by counsel and only appeared on a limited *pro se* basis in that action. Ohio's vexatious litigators statute pertains only to *pro se* actions and not those undertaken by counsel for litigants. Likewise, filings in federal court are categorically beyond the scope of that statute.

The trial court determined that the conduct of a *pro se* party in only one action or lawsuit is legally sufficient to impose a designation as a "vexatious litigator". (**App. 1 @ 2**). The Bikkanis' filed a notice of appeal of the September 25, 2009 Journal Entry and on January 4, 2010 the appeal was dismissed by the Court of Appeals, Eighth Appellate District, Cuyahoga County, *sua sponte* (App. 5).

### 3. ARGUMENT AND SUPPORT OF PROPOSITIONS OF LAW

#### **Proposition of Law No. 1:**

**The designation of a person as a vexatious litigator requires a determine that such person engaged in a pattern of vexatious conduct and a single action or incident of such conduct is insufficient to support the designation as a person as a vexatious litigator under O.R.C. § 2323.52.**

The trial court determined that Prasad Bikkani engaged in “vexatious conduct” and “...dragged his wife with him” (**App. 1 @ 2**). The trial court is referring to certain pleadings prepared by Mr. Bikkani and signed by both Bikkanis in the Miles Landing litigation. Mrs. Bikkani was a co-Defendant and necessary party because of her interest in the property against which condominiums maintenance fees were assessed. Otherwise, Vijaya Bikkani did nothing at all in any of the underlying litigation referred to in Bikkani One through Bikkani Seven referenced in the complaint.

The vexatious litigator statute, O.R.C. § 2323.52 is designed to stop litigators who over years file serial litigation against a wide swath of defendants asserting baseless claims. For example, the Eighth Appellate District determined that a vexatious litigator is one who filed 58 lawsuits in the Cuyahoga County Court of Common Pleas over the span of 20 or 30 years against multiple unrelated defendants ranging from mayors, police officers and prosecutors to social workers, judges, etc. Wallace v. City of Rocky River, case no. 80182 (8th App. Dist., August 1, 2002). Also, the party’s conduct must constitute a willful violation of law as oppose to mere negligence. Carr v. Riddle, 136 Ohio App.3d 700, 705-706 (8<sup>th</sup> App. Dist. 2000). “We also find that filing a pleading based on misinterpretation of existing law or grounds for extension or modification thereof, however misguided in hindsight, does not rise to the level of willfulness

necessary to warrant sanctions”, citing, Ceol v. Zion Indus., Inc., 81 Ohio App. 3d 286, 291 (1992).

The statute describes a vexatious litigator as, “...any person who has **habitually, persistently, and without reasonable grounds** engaged in vexatious conduct in a civil action or actions”. O.R.C. § 2323.52(3) (Boldface added). Against this backdrop, the trial court’s conclusion that conduct in only one action is sufficient to render the Defendants vexatious litigators is plainly in error.

Without question, Prasad Bikkani as a *pro se* litigant, did not comply with all procedural requirements of the Court. However, as indicated above, there was at least factual support for his claims of wrongful termination in Bikkani One. His complaint in Bikkani One was dismissed not on the merits but rather for violation of the discovery rules. Mr. Bikkani’s conduct was not “willful” or “malicious” for purposes of designating him as a “vexatious litigator” and there was no pattern of vexatious conduct over an extended period of time against multiple parties as described in Wallace, supra. In short, there simply was no habitual, persistent, and unreasonable conduct sufficient to designate Mr. Bikkani as a “vexatious litigator”.

For her part, Vijaya Bikkani has never been employed by and has had no relationship whatsoever with either NEON or THCP. Her sole connection to this matter is that she is married to Prasad Bikkani. She has not filed any of the underlying actions, motions or other papers for which the “vexatious litigator” designation has been attached. The only claim against her relates to her appearance as a *pro se* litigant and her signing certain pleadings prepared by her husband in the Miles Landing case, referred to as “Bikkani Six”. There was plainly no lawful basis to designate Vijaya Bikkani as a “vexatious litigator”.

**Proposition of Law No. 2:**

**Trial courts have no authority to amend, modify or limit the restrictions imposed upon declared vexatious litigators with respect to instituting or continuing proceedings in Ohio courts.**

As of June 4, 2010 there are approximately 82 individuals who have been declared vexatious litigators in Ohio, according to this Court's website (App. 3). However, many of the persons so designated have limitations and restrictions as to which courts the vexatious litigator designation applies. Others so designated have restrictions relating to the filing or continuation of claims against specific individuals. However, nothing in the vexatious litigator statute provides for such discretion in the type of limitation imposed upon a declared vexatious litigator. The designation applied to the Bikkani's include all courts, all types of claims and all Defendants. O.R.C. § 2323.52(D)(1) states:

If the person alleged to be a vexatious litigator is found to be a vexatious litigator, subject to division (D)(2) of this section, the court of common pleas may enter an order prohibiting the vexatious litigator from doing one or more of the following without first obtaining the leave of that court to proceed: (a) instituting legal proceedings in the court of claims or in a court of common pleas, municipal court, or county court; (b) continuing any legal proceedings that the vexatious litigator had instituted in any of the courts specified in division (D)(1)(a) of this section prior to the entry of the order; (c) making any application, other than an application for leave to proceed under division (F)(1) of this section, in any legal proceedings instituted by the vexatious litigator or another person in any of the courts specified in division (D)(1)(a) of this section.

The statute also states that a person designated as a vexatious litigator may not institute legal proceedings in a court of appeals without first obtaining leave of the court of appeals. O.R.C. § 2323.52(D).

The equal protection clause of the Ohio Constitution provides that laws of the state of Ohio shall be applied equally to all and without favor to any. Article I, Section 2 of the Ohio Constitution provides:

All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the general assembly.

As made evident by the attached list of vexatious litigators in Ohio (**App. 3**), persons designated vexatious litigators are being given discretionary and varying limitations in their access to Ohio courts in a matter not provided for by the general assembly or the Ohio Constitution. **Atkinson v. Grumman Ohio Corporation**, 37 Ohio St. 3d 80, 84 (1988); **Mayer v. Bristow**, 91 Ohio St. 3d 3 (2000). This Court should accept jurisdiction to address this issue on the merits.

**Proposition of Law No. 3:**

**The restrictions imposed upon persons designated “vexatious litigators” under O.R.C. § 2323.52 applies to individuals acting *pro se*. Those restrictions do not apply to persons so designated who are now proceeding through counsel.**

A “vexatious litigator” is a person who has habitually, persistently, and without reasonable grounds engaged in vexatious conduct in a civil action. O.R.C. § 2323.52(A)(3). By definition, a “vexatious litigator” does not include attorneys licensed to practice in Ohio unless such person is representing or has represented himself in the civil action or actions. In other words, the “vexatious litigator” designation is limited in scope to *pro se* litigants in Ohio.

A person found to be a “vexatious litigator” is prohibited from initiating or continuing any legal proceeding in any court in Ohio unless such person has obtained leave of court for such further proceeding. The question of whether this prohibition applies to a declared “vexatious litigator” acting through counsel has been answered inconsistently in this action in the trial court, Eighth District Court of Appeals and by this Court itself. On March 8, this Court issued an order indicating that counsel for Mr. Bikkani as a licensed attorney, was not required to seek leave to file an appeal on behalf of Prasad Bikkani (**App. 4**). Previously, this Court dismissed Mr. Bikkani’s notice of appeal, filed through the same counsel, because no leave of court was first obtained by counsel for Mr. Bikkani to appeal on Mr. Bikkani’s behalf. **Prasad Bikkani v. Rotan E. Lee, et. al.**, case no. 2008-1667, Entry dated August 26, 2008 (**App. 5**).

Appellants submit that “vexatiousness” is not contagious and does not travel to counsel by virtue of his or her representation of the declared vexatious litigator. The appearance of counsel on behalf of a vexatious litigator provides the necessary buffer in the form of formal legal training and experience so that vexatious conduct can be thwarted and avoided by such person’s own counsel. As such, the purposes of the vexatious litigator statute are preserved.

Obviously, to the extent a licensed attorney serves only as a conduit to continue vexatious conduct on behalf of his client, other sanctions are available to the Courts against such attorney.

#### 4. CONCLUSION

For the reasons discussed above, this case involves matters of public and great general interest and involves a substantial constitutional question. Appellant respectfully requests that this Court grant jurisdiction so that these important and relevant issues will be reviewed on the merits.



---

Kevin J. Breen, Esq. (#0034670)  
3500 West Market Street, Suite 4  
Akron, OH 44333  
Telephone: (330) 666-3600  
Facsimile: (330) 670-6556

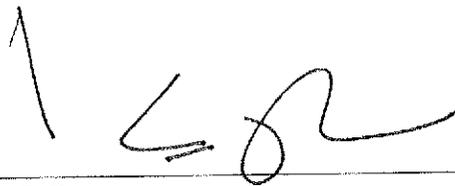
Attorney for Appellants

5. **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Appellants' Memorandum in Support of Jurisdiction was sent via U.S. Regular Mail this 4 day of June, 2010 to:

Matthew T. Fitzsimmons, Esq.  
Nicola, Gudbranson & Cooper, LLC  
Landmark Office Towers  
Republic Building, Suite 1400  
25 West Prospect Avenue  
Cleveland, OH 44115

Attorney for Appellees

  
\_\_\_\_\_  
Kevin J. Breen

6. **APPENDIX.**

1. September 25, 2009 Journal Entry declaring Prasad Bikkani and Vijaya Bikkani as vexatious litigators in the case captioned **Northeast Ohio Neighborhood Health Services, Inc., et. al. v. Prasad Bikkani, et. al.** case no. CV-07-628928 (Sutula, J.).
2. A January 4, 2010 Journal Entry dismissing the appeal *sua sponte* from the Court of Appeals of Ohio, Eighth District COA No. 94159.
3. List of vexatious litigators dated June 3, 2010 from the Supreme Court of Ohio.
4. March 8, 2010 Entry from the Supreme Court of Ohio, **In re application to appeal of Kevin Breen as attorney for Prasad Bikkani.**
5. August 26, 2008 Entry from the Supreme Court of Ohio *sua sponte*, striking the notice of appeal and memorandum in support of jurisdiction.

RECEIVED  
10 11 07

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

NORTHEAST OHIO NEIGHBORHOOD HEALTH SERVICES, INC., et al.	)	JUDGE JOHN D. SUTULA
	)	
Plaintiffs	)	CASE NO. CV-07-628928
	)	
vs	)	
	)	
PRASAD BIKKANI, et al.	)	JOURNAL ENTRY
	)	
Defendants	)	

John D. Sutula, J.

The Court finds the Defendants, Prasad Bikkani and Vijaya Bikkani, have both participated in conduct that to a reasonable person:

- 1) obviously served to merely harass or maliciously injure another party to a civil action; and,
- 2) was not warranted under existing law and was not supported by a good faith argument for an extension, modification or reversal of existing law; and,
- 3) was posed solely for delay.

This conduct has been exhibited in at least two civil actions as well as appellate off-shoots of those actions. This Court affirms the language of Judge David Matia in Case No. 566249, 5-29-09 entry, in describing the conduct of the defendants: Where the defendants went in the litigation process they left a wide path of destruction and have sown so much salt upon the land it would be barren for generations. The evidence adduced at trial indicates that there is no rational reason for the actions, conduct and allegations of the Defendants Bikkani.

O.R.C. 2323.52(A)(3) reads in part:

"Vexatious litigator" means any person who has habitually, persistently and without reasonable grounds engaged in vexatious conduct in a civil action or actions . . . whether the person or another person instituted the civil action or actions, and whether the vexatious conduct was against the same party or against different parties in the civil action or actions. (emphasis added)

Regardless of whether the Defendants Bikkani instituted an action or they were the named defendants, they behaved similarly in filing baseless actions and motions, refusing to participate in discovery, and making allegations so vile that common decency prevents the Court from repeating them here. Such conduct in only one action is sufficient to render the Defendants Bikkani vexatious litigators. Prasad Bikkani prepared the documents containing the vexatious allegations and Vijaya Bikkani freely signed those pleading, thus making the allegations her allegations.

Prasad Bikkani is obviously a bright and intelligent individual, but he has lost his way with all of this litigation. It has completely sidetracked his life and mired him in what can only be considered mean and vengeful conduct. The Court can only hope that he can return to productive work, but his conduct in these cases falls into the vexatious category and he has dragged his wife with him.

The Court, therefore, orders, adjudges, and decrees that:

- 1) Defendants Prasad Bikkani and Vijaya Bikkani are declared to be vexatious litigators and are prohibited from doing any and all of the following, without first obtaining leave of the applicable court:
  - (A) Instituting legal proceeding in the court of claims, or in a court of common pleas, municipal court, or county court;
  - (B) Continuing any legal proceedings the Defendants Bikkani had instituted in any of the courts specified above prior to the entry of this order;

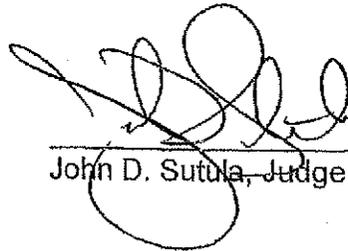
- (C) Making any application, other than an application for leave to proceed allowed under Division (F)(1) of O.R.C. 2323.52 in any legal proceedings instituted by the Defendants Bikkani or another person in any of the courts specified in (A) above;
- (D) Instituting legal proceedings in a court of appeals, continuing any legal proceedings that the Defendants Bikkani had instituted in a court of appeal prior to entry of this order, or make any application, other than the application for leave to proceed allowed by Division (F)(2) of O.R.C. 2323.52, in any legal proceeding instituted by Defendants Bikkani or another person in a court of appeals without first obtaining leave of the court of appeals to proceed pursuant to Division (F)(2) of O.R.C. 2323.52.

2) This order shall remain in force indefinitely against Defendants Bikkani.

**IT IS SO ORDERED.**

Date: \_\_\_\_\_

9.25.09



\_\_\_\_\_

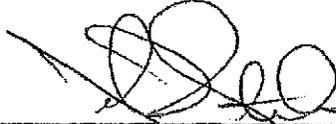
John D. Sutula, Judge

CERTIFICATE OF SERVICE

A copy of the foregoing Journal Entry was sent by regular U.S. Mail this 25 day  
of September, 2009, to:

Matthew T. Fitzsimmons, Esq.  
R. Christopher Yingling, Esq.  
Republic Building, Suite 1400  
25 West Prospect Avenue  
Cleveland, OH 44115-1048  
*Attorneys for Plaintiffs*

Kevin J. Breen, Esq.  
3500 West Market Street, Suite 4  
Akron, OH 44333  
*Attorney for Defendants Bikkani*



---

John D. Sutula, Judge

JAN 04 2010

# Court of Appeals of Ohio, Eighth District

County of Cuyahoga  
Gerald E. Fuerst, Clerk of Courts

N.E. OH NEIGHBORHOOD HEALTH SERV.ETA

Appellee

COA NO.  
94159

LOWER COURT NO.  
CP CR-628928

COMMON PLEAS COURT

-vs-

PRASAD BIKKANI, ET AL

Appellant

MOTION NO. 429786

Date 01/04/2010

Journal Entry

SUA SPONTE, THE APPEAL IS DISMISSED.

FILED AND JOURNALIZED  
PER APP.R. 22(C)

JAN X 4 2010

GERALD E. FUERST  
CLERK OF THE COURT OF APPEALS  
BY \_\_\_\_\_ DEP.



Judge MARY EILEEN KILBANE, Concur

Presiding Judge  
SEAN C. GALLAGHER

VL0696 80603

1-8-10

SCO HOME » CLERK » VEXATIOUS » VEXATIOUS LITIGATORS UNDER R.C. 2323.52

## Vexatious Litigators Under R.C. 2323.52

Section 2323.52 of the Ohio Revised Code establishes a procedure for having courts of appeals and common pleas courts declare certain persons to be vexatious litigators. The statute requires the clerk of court that enters a vexatious litigator order to send a copy of the order to the Supreme Court for publication. Pursuant to the statute, the Supreme Court has been sent court orders determining the individuals listed below to be vexatious litigators.

### How to use these files

This list includes the name of the person determined to be a vexatious litigator, the court issuing the order, the date the order was entered, and relevant comments. The list is available sorted in alphabetical order by last name of litigator, and sorted chronologically by date of order. Select the **name** of the individual to **view, download, or print the order**. You will need the free plug-in *Acrobat Reader* to access the order.

### Disclaimer

The following list contains **only** those orders the Supreme Court has received from the clerks of the courts of appeals and courts of common pleas.

### For more information

Contact the **clerk** of the issuing court to determine whether orders have been amended or modified, or for additional information.

[View list sorted by last name](#) | [View list sorted by order date](#)

Name	Court that issued the order	Date of order	Comments
Baumgartner, Elsebeth M.	Ottawa County C.P.	04/05/04	
Bennett, Leland, a.k.a Abengo, Daniel	Mahoning Co. C.P.	01/24/03	
Bikkani, Prasad and Vijaya	Cuyahoga Co. C.P.	09/25/09	
Bilder, Rudolph	Summit Co. C.P.	11/15/04	Actions limited to certain individuals. See Order
Borger, Iduna	Hamilton Co. C.P.	03/19/01	
Borkowski, A. J.	Fulton Co. C.P.	04/29/04	Limited to legal actions in the Fulton County Court of Common Pleas
Bozsik, Steven A.	Medina Co. C.P.	03/17/05	Does not apply to courts of appeals
Bratton, Judith	Summit Co. C.P.	05/10/99	
Briggs, Joel	Hamilton Co. C.P.	11/05/97	Order modified on 02/05/99
Bristow, Lonny	Crawford Co. C.P.	06/01/98	See also <i>Mayer v. Bristow</i> (2000) 91 Ohio St. 3d 3
Buoscio,	Franklin Co.	12/01/05	Limited to legal actions

<b>Samuel L.</b>	C.P.		against named defendant
<b>Buoscio, Samuel L.</b>	Summit Co. C.P.	12/11/06	
<b>Buschard, Preston</b>	Hamilton Co. C.P.	9/21/06	Limited to legal actions involving the state of Ohio or Hamilton County
<b>Castrataro, Linda</b>	Delaware Co. C.P.	5/09/03	Limited to legal actions in the Delaware County Court of Common Pleas
<b>Cody, James Z.</b>	Summit Co. C.P.	03/05/10	Limited to actions in the Summit County Court of Common Pleas
<b>Dunina, Olga</b>	Miami Co. C.P.	05/16/08	Does not apply to courts of appeals
<b>Ealy, Larry E.</b>	Montgomery Co. C.P.	12/05/06	
<b>Fergus, Carol A.</b>	Cuyahoga Co. C.P.	04/29/04	Some prohibitions limited to Pro se filings only
<b>Fontanella, Dominic</b>	Mahoning Co. C.P.	06/29/06	Limited to legal actions in the Mahoning County Court of Common Pleas
<b>Georgeadis, Maria</b>	Franklin Co. C.P.	01/21/99	Decision rendered 01/21/99; judgment entry filed 02/05/99
<b>Gitler, Pat</b>	Lucas Co. C.P.	8/27/07	
<b>Glick, Eldon</b>	Wayne Co. C.P.	10/10/07	Limited to legal actions in Wayne County Court of Common Pleas or Wayne County Municipal Court
<b>Godale, William</b>	Geauga Co. C.P.	01/16/08	
<b>Godec, Ronald</b>	Lake Co. C.P.  Juvenile Division	10/05/09	Does not apply to courts of appeals
<b>Griffin, Levert</b>	Summit Co. C.P.	02/23/09	Does not apply to courts of appeals
<b>Grundstein, Robert</b>	Cuyahoga Co. C.P.	10/12/05	
<b>Hall, Sharon L.</b>	Summit Co. C.P.	03/05/10	Limited to actions in the Summit County Court of Common Pleas
<b>Harmon, Donald A.</b>	Mahoning Co. C.P.	04/09/01	
<b>Helfrich, James</b>	Licking Co. C.P.	11/25/08	Does not apply to court of appeals
<b>Howard, Gregory T.</b>	Lucas Co. C.P.	08/22/00	Additional judgement entry entered 06/11/01
<b>Howard, Gregory T.</b>	Franklin Co. C.P.	01/11/06	
<b>Hurley, James</b>	Clark Co. C.P.	04/22/99	

<b>Johnson, Cindy</b>	Athens Co. C.P.	09/18/08	
<b>Karnofel, Delores</b>	Trumbull Co. C.P.	10/06/08	Does not apply to courts of appeal
<b>Kinstle, Nicholas J.</b>	Union Co. C.P.	03/06/07	
<b>Kinstle, Nicholas J.</b>	Allen Co. C.P.	09/8/09	Does not apply to courts of appeals
<b>Kluge, Kurt</b>	Wood Co. C.P.	09/16/98	Amended judgment entry and order filed 10/07/98
<b>Koleno, George</b>	Lorain Co. C.P.	08/31/99	
<b>Kosanovich, Jean</b>	Ottawa Co. C.P.	05/08/97	
<b>Lasson, Gerald A.</b>	Montgomery Co. C.P.	12/07/06	
<b>Lewis, Sidney</b>	Franklin Co. C.P.	05/04/06	See also <b>05CVH07-7346</b>
<b>Lynch, Jan</b>	Lorain Co. C.P.	01/31/08	Applies only to courts of common pleas and municipal courts
<b>Martin, Robert</b>	Wayne Co. Probate Court	07/26/07	Does not apply to court of appeals
<b>May, Morris</b>	Hamilton Co. C.P.	07/24/98	
<b>Metzenbaum, Terry Shane</b>	Cuyahoga Co. C.P.	07/13/04	
<b>Miller, Selina</b>	Franklin Co. C.P.	05/17/01	
<b>Nemeth, Teri L.</b>	Geauga Co. C.P.	12/29/08	Does not apply to courts of appeal
<b>Newsome, Frank</b>	Montgomery Co. C.P.	08/14/06	
<b>Pavarini, Philip and Kathryn Krinek</b>	Cuyahoga Co. C.P.	07/29/99	
<b>Payne, Thomas E.</b>	Montgomery Co. C.P.	03/12/99	
<b>Pearce, Richard</b>	Ottawa Co. C.P.	05/21/98	
<b>Perotti, John</b>	Cuyahoga Co. C.P.	08/28/08	Does not apply to courts of appeals
<b>Petway, Derrick</b>	Lake Co. C.P.	10/04/07	
<b>Planey, Joseph</b>	Mahoning Co. C.P.	03/26/09	Does not apply to courts of appeal; order expires in ten (10) years
<b>Price, Terrell</b>	Lorain Co. C.P.	02/02/07	
<b>Rickels, Romane</b>	Paulding Co. C.P.	03/31/05	

<b>Rickels, Romane</b>	Paulding Co. C.P.	02/02/06	
<b>Rolland, Robin Neil</b>	Butler Co. C.P.	03/14/00	
<b>Sawchyn, Ivan</b>	Cuyahoga Co. C.P.	10/18/01	
<b>Smith, Barbara</b>	Summit Co. C.P.	10/18/01	Additional order entered 6/19/03
<b>Spencer, Scott W.</b>	Franklin Co. C.P.	10/25/04	
<b>Spencer, Maria L.</b>	Franklin Co. C.P.	10/25/04	
<b>Taylor, Teresa Jane</b>	Wayne Co. C.P.	08/21/08	
<b>Thrower, Albert</b>	Summit Co. C.P.	09/22/03	Limited to legal actions in the Summit County Court of Common Pleas
<b>Thrower, Raymond</b>	Summit Co. C.P.	10/31/03	
<b>Tillimon, Duane J.</b>	Lucas Co. C.P.	06/13/07	Order indicates it shall remain in effect for three years
<b>Topazio, Michelle</b>	Cuyahoga County C.P. Juvenile Division	02/17/09	Limited to legal actions in the Cuyahoga County Court of Common Pleas and all courts of appeal
<b>Tracy, Edward</b>	Miami Co. C.P.	01/12/04	
<b>Traver, Frances</b>	Hamilton Co. C.P.	02/04/03	Limited to litigation regarding certain real property in Hamilton County (see entry)
<b>Triplett, James</b>	Franklin Co. C.P.	12/03/04	
<b>Wallace, Linda</b>	Cuyahoga Co. C.P.	08/02/01	Decision rendered 08/02/01; journal entry received for filing 08/03/01
<b>Watley, Rayshan</b>	Franklin Co. C.P.	12/15/08	Does not apply to courts of appeal
<b>Webb-Lewis, Yvonne D.</b>	Franklin Co. C.P.	07/24/05	
<b>Westfall, John T.</b>	Guernsey Co. C.P.	02/05/09	Limited to legal actions in Guernsey County Common Pleas Court or Municipal Court
<b>Whitt, Patsy Sue</b>	Greene Co. C.P.	06/06/05	
<b>Williams, Regina</b>	Franklin Co. C.P.	11/04/04	
<b>Wilson, Thomas</b>	Lorain Co. C.P.	11/27/06	

# The Supreme Court of Ohio

FILED

MAR 08 2010

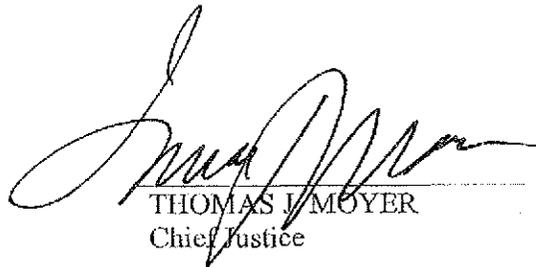
CLERK OF COURT  
SUPREME COURT OF OHIO

In re application to appeal of Kevin Breen  
as attorney for Prasad Bikkani

ENTRY

On March 5, 2007, this Court found Prasad Bikkani to be a vexatious litigator under S.Ct. Prac. R. 14.5(B). This Court further ordered that Bikkani was prohibited from continuing or instituting legal proceedings in this Court without first obtaining leave. On March 2, 2010, attorney Kevin Breen, on behalf of Prasad Bikkani, submitted an application for leave to file a notice of appeal in the Ohio Supreme Court.

It is ordered by the Court that Breen's application for leave to appeal is granted. The order declaring Prasad Bikkani a vexatious litigator does not apply to counsel representing Bikkani. Breen, as a licensed attorney, may file a notice of appeal on behalf of Bikkani, so long as it complies with the Supreme Court Rules of Practice.



THOMAS J. MOYER  
Chief Justice

3-11-10

# The Supreme Court of Ohio

FILED

AUG 26 2008

CLERK OF COURT  
SUPREME COURT OF OHIO

Prasad Bikkani

Case No. 2008-1667

v.

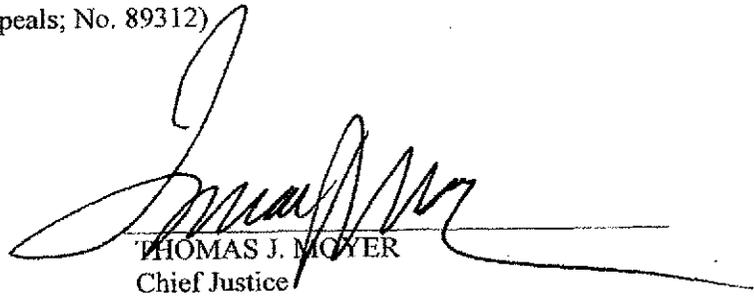
ENTRY

Rotan E. Lee et al.

On March 5, 2007, this Court found Prasad Bikkani to be a vexatious litigator under S.Ct.Prac.R. XIV(5)(B). This Court further ordered that Bikkani was prohibited from continuing or instituting legal proceedings in this Court without first obtaining leave. On August 21, 2008, Bikkani submitted a notice of appeal and memorandum in support of jurisdiction but failed to first seek leave of the Court. Upon consideration thereof,

It is ordered by the Court, sua sponte, that the notice of appeal and memorandum in support of jurisdiction are hereby stricken. Accordingly, this cause is dismissed.

(Cuyahoga County Court of Appeals; No. 89312)



THOMAS J. MOYER  
Chief Justice