

IN THE SUPREME COURT OF OHIO

THE STATE OF OHIO ex rel.  
DOUGLAS C. BARTON

CASE NO. 2014-2241

Relator,

vs.

KEESHA A. BARTON, et al.,

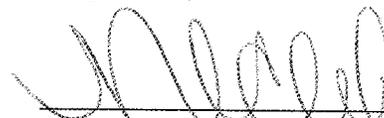
RESPONDENT BARTON'S  
MOTION TO DISMISS ORIGINAL  
ACTION IN WRIT OF  
MANDAMUS AND PROHIBITION

Respondent.

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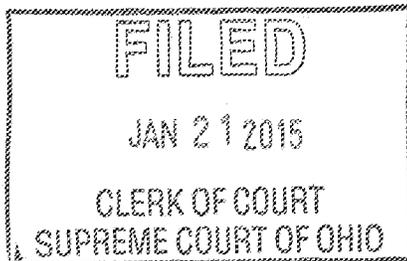
Now comes **Respondent, Keesha Barton**, by and through counsel, **Nicole Rutter-Hirth of RION, RION & RION, L.P.A., INC.**, and hereby respectfully submits this Motion to Dismiss the Writ of Mandamus and Prohibition filed by Relator in this matter.

Respectfully submitted,



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**Nicole Rutter-Hirth (#0081004)**  
**JON PAUL RION (#0067020)**  
**RION, RION & RION, L.P.A., INC.**  
Suite 2150  
130 W. Second Street  
P.O. Box 10126  
Dayton, Ohio 45402  
(937) 223-9133  
info@rionlaw.com



**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that a copy of the foregoing *Motion to Dismiss* was served by first class mail via the U.S. Postal Service upon the following:

Douglas C. Barton  
437 Warwick Place  
Fairborn, OH 45324

***Relator (Pro Se)***

Keesha A. Barton  
2352 Barnard Drive  
Fairborn, OH 45385

Elizabeth Ellis  
Stephen Haller  
Attorney for Respondents Judge Hurley,  
Judge Campbell, and Greene County  
Domestic Relations Court  
61 Greene St., Suite 200  
Xenia, Ohio 45385

John Ruffolo  
Counsel for Respondent Charles Slicer  
7501 Paragon  
Dayton, Ohio 45459

Michael McNamee  
Counsel for Respondent David  
McNamee  
2625 Commons Blvd.  
Beavercreek, OH 45431

Sarah E. Pierce  
Counsel for Respondent Second  
District Court of Appeals  
Constitutional Offices Section  
30 East Broad Street, 16<sup>th</sup> Floor  
Columbus, OH 43215

***Respondents***

  
\_\_\_\_\_  
**Nicole Rutter-Hirth**

**Jon Paul Rion**

**RION, RION & RION, L.P.A., INC.**

## MEMORANDUM

### **MAY IT PLEASE THE COURT:**

Relator filed a Writ of Mandamus and Writ for Prohibition. This court lacks jurisdiction to hear these matters, Relator has failed to state a claim, and Relator is not entitled to the relief requested. For these reasons, this matter must be dismissed.

### Statement of Law

To obtain a writ of mandamus, the petitioner must establish a clear legal right to the relief requested, a clear legal duty of the judge to grant it, and the lack of an adequate remedy in the ordinary course of the law. *State ex rel. Waters v. Spaeth*, 131 Ohio St.3d 55, 2012 Ohio 69, paragraph 6. Petitioner must show he is entitled to the relief requested by clear and convincing evidence. *Id* at 13. See also *State ex. rel. Richard v. Mohr*, 135 Ohio St.3d 373, 2013 Ohio 1471.

A writ of prohibition is an extraordinary writ to challenge the jurisdiction of a court to act. *Burnett v. Dewey*, 6<sup>th</sup> Dist. Sandusky S-11-021, 2011 Ohio 4678, at paragraph 7. The writ will be issued only if the petitioner can prove the court or officer against whom it is sought is about to exercise judicial or quasi-judicial power, the exercise of which is unauthorized by law, and that refusal of the writ will result in injury for which no other remedy exists. *Id.*

**1. Relator has other remedies at law to address the matters raised.**

Relator's writs allege constitutional violations as a result of evidentiary issues from his divorce and protection order cases in Greene County Domestic Relations Court, cases 13DR207 and 13DV193. Those matters were concluded and are the subject of two appeals in the Second District Court of Appeals, Case Numbers 14CA46 (hereafter "divorce appeal") and 14CA21 (hereafter "protection order appeal"). A decision on the protection order appeal was just recently issued on January 9, 2015.

The writs allege nearly everyone involved in the cases – the trial court, appellate court, and attorneys – violated Relator's constitutional rights during those proceedings. Specifically, Relator contends the trial court lacked jurisdiction over the divorce, the award of spousal support and property division were improper, the attorneys committed fraud in conducting discovery, and the mutual restraining orders issued in the divorce case violated his due process rights. The claims raised in the writ are identical to those pending in the Second District Court of Appeals. The Court of Appeals is the proper forum to litigate such claims and this matter must be dismissed.

(A) Relator's claims against Respondent Keesha Barton must be dismissed as they are the subject of pending appeals in the Second District Court of Appeals.

As it relates to Respondent Barton, Relator alleges she committed fraud by applying for a civil protection order; committed spoliation of evidence by failing to produce an original antenuptial agreement; and obtained a fraudulent auto title and registration (Writ, pgs. 3-4, 6, 7). Relator's brief in the divorce appeal raises forty-nine assignments of error, including claims identical to those raised in this writ, based upon identical facts.

First, this court lacks jurisdiction to consider these extraordinary writs because these matters are the subjects upon which Relator is currently appealing. *State ex. rel. Woodbury v. Spitler*, 40 Ohio St.2d 1, 318 N.E.2d 165 (1974) which held “[w]hen a petition stating a proper cause of action in mandamus is filed originally in the Ohio Supreme Court or in the Court of Appeals, and it is determined the relator has a plain and adequate remedy in the ordinary course of the law by way of an appeal, neither the Supreme Court nor the Court of Appeals has authority to exercise jurisdictional discretion but those courts are required to deny the writ.” *Id* at 3. Further, “where an action is pending and undetermined in a lower court of competent jurisdiction, and where there is otherwise an adequate remedy by way of an appeal, this court has no authority to determine what judgment should be rendered by the lower court.” *Id*. “Neither prohibition nor mandamus may be made a substitute for appeal. This is a well settled and long-established principle of law.” *State ex. rel. Broer v. Alexander*, 175 Ohio St. 24, 28, 190 N.E.2d 923 (1963).

This court lacks jurisdiction to address the writs because the appellate court is the remedy available to Relator. All of these issues are specifically raised in the pending appeals filed by Relator. It is worth noting that Relator is an active participant in those matters, as he has filed multiple motions in both appeals. For example, he filed a seventy-nine page brief in the divorce appeal. He certainly recognizes his right to appeal and is actively exercising that right. Simply stated, the appellate cases need to run their course.

Second, any argument raised in this writ that is not raised in the appeal cannot be litigated here because the appellate court would have been the proper forum to litigate the issues. Every argument he raises here addresses specific hearings during the divorce and

protection and all matters were addressed on the record. Any argument not raised in the appeal cannot be raised here and Relator waives the right to make said claims.

Relatedly, many of Relator's claims surround asset division in the divorce and discovery as it relates to those assets. The divorce court addressed those matters and they are not to be re-litigated here. Relator is merely seeking a second bite at the apple.

Finally, Relator filed a small claims action in the Fairborn Municipal Court, case CVI 1400028, addressing the antenuptial document. The small claims action was ultimately dismissed (see attached).

In conclusion, Relator had the opportunity to be heard in the divorce and protection order cases. He appealed both. Despite those pending cases, he filed claims in other courts against Respondent Barton surrounding the same issues. Relator needs to stop filing cases simply because he is dissatisfied with the hearings in which he participates. For these reasons, Respondent Barton requests this matter be dismissed.

(B) Relator's claims against Respondents Judge Hurley and Judge Campbell, and the Greene County Domestic Relations Court must be dismissed.

While undersigned represents only Respondent Barton, this matter must be dismissed in its entirety because none of the claims against any of the Respondents can survive. Relator claims Judge Hurley failed to correct civil rights violations, failed to properly supervise or train his staff, and violates the rights of the citizens of Greene County by issuing mutual restraining orders in all divorce actions (Writ, pg. 4). Relator claims Judge Campbell failed to correct civil rights violations, failed to follow the law, encouraged fraud, and operated a "kangaroo court" (Writ, pg. 4). Relator claims the Greene County Domestic Relations Court

violated his rights by not granting him a full hearing on Respondent Barton's civil protection order on December 4, 2013.

All claims against Respondents Judge Hurley, Judge Campbell, and the Greene Domestic Relations Court cannot survive because Relator has remedies available to him against these Respondents. These respondents are judicial officers and licensed attorneys, whose actions are regulated by the Ohio Supreme Court and the Rules of Professional Conduct and Code of Judicial Conduct. A complaint against a judge or attorney can be addressed by the local bar association, the Ohio Office of Disciplinary Counsel, and for judges, the Ohio State Bar Association. Relator is aware of this procedure as he has filed ethical complaints against attorneys involved in this cases previously (see Exhibit B attached to Writ). An extraordinary writ is not proper to address ethical violations of a judge.

Further, Relator has also filed a federal civil rights against Judge Hurley, Magistrate Martin and Metzler-Stump, and Sheri Hall (all of whom work for the Greene County Domestic Relations Court) in the United States District Court, Southern District of Ohio, Dayton (complaint, 3:14-cv-0001, attached hereto). That was dismissed on April 10, 2014 and no appeal was taken thereafter (Decision, attached hereto). It is clear that these extraordinary writs are not proper or necessary due to the other remedies at law available to Relator.

(C) Relator's claims against the Second District Court of Appeals must be dismissed.

Relator claims the Second District Court of Appeals has knowledge that his rights were violated but has failed to act, showing a "pro se bias" (Writ, pg. 5). This claim must be

dismissed because Relator has at least one adequate remedy at law to address his allegations against the Second District Court of Appeals; Relator may seek to appeal the decision of the Court of Appeals to this court after the two pending appeals are decided. However, the claims raised in the writ are premature as to this Respondent because the divorce appeal is still pending and the protection order appeal has just recently been decided. Respondent Barton may now seek to appeal that decision, and that time has not yet expired. All claims against the Second District Court of Appeals must be dismissed as being premature.

(D) Relator's claims against Attorneys Slicer and McNamee must be dismissed.

As argued above, Relator's claims about Attorneys Slicer and McNamee must be dismissed. Relator claims Attorney Slicer lied about the reason for a deposition, conducted a deposition purely for harassment, participated in spoliation of evidence, committed discovery abuses, and procured fraud upon the trial court (Writ, pg. 5, 6-7). Relator claims Attorney McNamee conducted a spoliation of evidence and refused discovery of copy of antenuptial agreement (Writ, pg. 8, 9). As stated above, these respondents are licensed attorneys whose actions are regulated by the Ohio Supreme Court and the Rules of Professional Conduct. A complaint against an attorney can be addressed by the local bar association or the Ohio Office of Disciplinary Counsel. Relator is aware of this remedies as he has filed ethical complaints against other attorneys in this case (see Exhibit B attached to Writ). He is clearly familiar with that process. An extraordinary writ is not he proper method to address alleged ethical violations of attorneys.

(E) Conclusion

In conclusion, there is no claim against any Respondent which is properly before this court. Respondent Barton is a party to the appellate actions and that is the proper forum to litigate the divorce issues. Relator can challenge the constitutional issues, evidentiary issues, and division of property in the pending appeals. He can challenge the actions of the attorneys and judges in disciplinary proceedings. None of the claims against any of the Respondents are properly before this court.

Wherefore Respondent Barton respectfully requests this court dismiss all claims against her and further dismiss this matter as a whole because Relator has remedies available to him as to every respondent.

**2. Relator had failed to state a claim that he is entitled to the relief he seeks.**

A court can dismiss a writ of mandamus or prohibition for failing to state a claim, pursuant to Civ.R.12(B)(6), if after all factual allegations are presumed true and all reasonable inferences are made in relator's favor, it appears beyond doubt that he can prove no set of facts entitling him to the writ of mandamus. *State ex. rel. Russell v. Thornton*, 111 Ohio St.3d 409, 2006 Ohio 5858, at paragraph 9. Construing Relator's arguments in the manner most beneficial to him, assuming all facts are true and considering all reasonable inferences, he still fails to demonstrate he is entitled to the relief requested. He has not proven by clear and convincing evidence that he has a clear legal right to the relief requested, the judge has a clear legal duty to grant it, and that he lacks remedy in the ordinary course of the law. He has not proven by clear and convincing evidence that the Greene County Domestic Relations Court,

Judge Hurley, Judge Campbell, or the Second District Court of appeals are exercising jurisdiction of his case contrary to the law, and that their actions will result in injury to Relator.

(A) Relator has failed to state a claim against Respondent Barton

As it relates to Respondent Barton, Relator alleges she committed fraud by applying for a civil protection order, and during the divorce, she committed spoliation of evidence by failing to produce an original antenuptial agreement and obtained a fraudulent auto title and registration.

First, Respondent Barton is entitled to apply for a domestic violence protection order pursuant to R.C. 3113.31. An ex parte order was granted and after a full hearing, a protection order was granted against Relator in Respondent Barton's favor. It is unclear from his petition how Respondent Barton committed fraud; however it appears Relator's contends Respondent Barton cannot apply for a protection order because she was charged with domestic violence. This is incorrect. R.C. 3113.31 does not prohibit a party from filing a protection order simply because they have been charged with a crime.

Further, Respondent Barton was not convicted of domestic violence. She was convicted of disorderly conduct and all records of her conviction have been sealed (see attached order Sealing her records, filed Jan. 2, 2015). The records of her arrest, charge and conviction cannot be used against her, pursuant to R.C. 2953.32(C)(2). Additionally, she entered a no contest plea and therefore that record of conviction could not be used against her in a civil proceeding. See Crim.R.11(B).

Respondent Barton did not commit spoliation of evidence by failing to produce an original antenuptial agreement. She provided her divorce attorney with the antenuptial agreement. Relator does not indicate how a copy of the antenuptial agreement was fraudulent, how it differed from the original document, or what prejudice he suffered by use of a copy at trial. He fails to state a claim.

Respondent Barton did not obtain a fraudulent auto title or registration to the 2005 KZ Toyhauler (hereafter "Toyhauler"). Relator alleges Respondent Barton wrongfully obtained a title for the Toyhauler in the names of both Relator and Respondent. However, Relator admits he contacted the Title Division of the Clerk of Courts and they reissued title in Relator's name alone. Thus, it is clear from Relator's Writ that, even if these allegations are true, he suffered no harm because a subsequent title was issued in his name alone. Further, Relator was ultimately awarded the Toyhauler in the divorce action, which he fails to state in the writ, showing the court was not influenced by the "fraud" he alleges Respondent Barton perpetrated.

Relator also claims Respondent Barton committed fraud with attorney Bryan Penick, and attorney Dalma Grandjean. Relator does not provide sufficient factual basis to support these claims and therefore no response is necessary.

(B) Relator has failed to state a claim against Respondents Judge Hurley and Judge Campbell, and the Greene County Domestic Relations Court.

Relator claims Respondent Judge Hurley failed to correct civil rights violations, failed to properly supervise or train his staff, and violated the rights of the citizens of Greene County by issuing mutual restraining orders in all divorce actions (Writ, pg. 4). Relator claims Judge

Campbell failed to correct civil rights violations, failed to follow the law, encouraged fraud, and operated a “kangaroo court” (Writ, pg. 4). Relator claims the Greene County Domestic Relations Court violated his rights by not granting him a full hearing on Respondent Barton’s civil protection order on December 4, 2013. None of these claims have merit.

First, issuance of restraining orders in divorce actions is common practice. Many courts issue restraining orders automatically. This is not a practice unique to Greene County. See Mont. D.R. Rule 4.17, Darke County D.R. Rule 7(C)(b), for example. Further, Relator does not allege how issuance of the mutual restraining orders violates his rights. He alleges no prejudice, no disparate treatment, nor cites to any specific constitutional violation. Merely alleging this constitutes a “blatant disregard for civil rights” and is “unbelievable” does not adequately state a claim. Contrary to Relator’s claims, the mutual restraining orders are designed to protect the parties from financial waste and harassment during the divorce. They are beneficial, not harmful, to the parties.

Second, Relator alleges that Judge Hurley and the Domestic Relations Court violated his rights by granting a continuance to Respondent Barton on the protection order she filed. Courts have broad discretion to grant a continuance. See *State v. Conway*, 108 Ohio St.3d 214, 2006 Ohio 791. This applies to domestic violence protection orders too. See *Martin v. Martin*, 10<sup>th</sup> Dist. Franklin 13AP-171, 2013 Ohio 5793. The court did not abuse its discretion in granting a continuance to Respondent Barton for good cause shown. Relator never objected to the continuance at that time and he cannot object now. Additionally, a full protection order was granted against Relator. Therefore Relator cannot show that continuing the ex parte hearing was prejudicial because an order was ultimately made against him after a

hearing on the merits of the case. The Court of Appeals has just recently issued a decision reversing the protection order, and the time to appeal has not yet concluded. Therefore Relator cannot show how he suffered any prejudice by the court continuing the hearing, to which he did not object at the time the continuance was requested or granted. Relator fails to state a claim as it relates to Judge Hurley.

Relator does not present any facts as it relates to Judge Campbell and therefore fails to state a claim.

(C) Relator has failed to state a claim against Respondents Second District Court of Appeals.

Relator alleges the Court of Appeals has knowledge of his civil rights violations and fails to act (Writ, pg. 5). However, the Court of Appeals has not issued a decision on the divorce appeal to date. Because that case is progressing and therefore Relator has failed to state a claim. As it relates to the protection order appeal, Relator just received a decision that the protection order was reversed due to insufficient evidence. This decision is in Relator's favor, demonstrating that the Court of Appeals has given Relator the opportunity to be heard.

Further, it is apparent that Relator is merely dissatisfied with the procedural rulings issued by the Second District Court of Appeals in the appeals. However, Relator has blatantly violated that court's orders and it is apparent from a review of the docket that the Second District Court of Appeals has been quite fair with Relator. Relator chooses to ignore the preliminary orders of that court and continues to submit pleadings which are not in compliance with the court's decisions, the court's local rules, and the Ohio rules of appellate procedure. For example, Relator sought leave to file a brief in excess of twenty-five pages,

which the court granted and permitted the filing of a brief up to thirty-five pages. Relator filed a brief which is seventy-nine pages, and filed a notice that he will not reformat it or conform to their rules (see attached). Relator appears to be merely dissatisfied with the court's failure to accommodate his unreasonable requests. This does not give rise to a writ of mandamus or writ of prohibition.

(D) Relator has failed to state a claim against Respondents Attorneys Slicer and McNamee.

Relator claims Attorney Slicer lied about the reason he deposed Relator and conducted a deposition purely for harassment. He also alleges Respondent Slicer participated in spoliation of evidence, committed discovery abuses, and procured fraud upon the trial court (Writ, pg. 5, 6-7). Relator claims Attorney McNamee conducted a spoliation of evidence and refused discovery of an antenuptial agreement (Writ, pg. 8, 9). None of these allegations amount to cognizable claims.

First, as previously argued, Respondents Slicer and Respondent Barton did not submit a false title for the Toyhauler. Even assuming they did, Petitioner subsequently received a title solely in his name and was awarded the Toyhauler in the divorce. There is insufficient evidence presented to support his claim.

Second, Respondent Slicer is entitled to conduct discovery, including depositions. Any litigant in a divorce proceeding can be subjected to discovery demands, including depositions. Relator cannot show the deposition was purely for harassment, and if it was, how this caused prejudice or injury, or violated his rights.

Respondents Slicer and McNamee did not commit a spoliation of evidence by failing to

provide an original antenuptial agreement. Relator has not raised any allegations as to the authenticity of the document or whether the copy differed from the original. He has failed to state a claim.

**3. This court cannot grant the relief sought by Petitioner.**

Relator seeks the following relief: temporary injunction against all orders until resolution of this matter; an order prohibiting the Greene County Domestic Relations Court from issuing temporary restraining orders in divorce actions without a hearing; an order prohibiting the issuance of any type of civil protection order against military members; an order voiding all judgments in this matter; an order to prepare the transcripts at the state's expense; a change of venue for a new divorce action; an order of disbarment for Respondents Slicer and McNamee; an order for public disciplinary hearing for Respondent Judge Hurley and Respondent Judge Campbell, and attorneys Bryan Penick and Dalma Grandjean; an order reminding the Second District Court of Appeals of their duties, and a handwritten letter of apology from every member of that court.

First, Respondent Barton argues this matter must be dismissed and therefore no relief should be granted.

Second, Relator has failed to show any judgment issued in this matter is void so no judgment should be set aside.

Third, the relief sought by Relator would actually harm the citizens of Greene County. Specifically, to prohibit the court from issuing a domestic violence protection order against a member of the military would allow these individuals to commit acts of domestic violence

upon their family and household members, including their spouses and children, and not protect those victims. This would only encourage victimization and reduce the resources available to victims. Prohibiting a divorce court from issuing a mutual restraining order against a member of the military would allow them to commit financial waste, conceal assets, and harass their spouse during the divorce, with no immediate recourse.

Further, a total prohibition on the issuance of mutual restraining orders in divorce proceedings, military and non-military, without a hearing, would allow for asset depletion and concealment in divorce proceedings. It would also eliminate contempt sanctions for committing such behaviors.

Fourth, Relator is not entitled to a transcript of the proceedings at the state's expense. See *Liming v. Damos*, 133 Ohio St.3d 509, 2012 Ohio 4783 which held that indigent defendants are not guaranteed the same rights in civil or quasi-civil proceedings, including the right to a transcript prepared at the state's expense. See also *In re: R.L.H.*, 8<sup>th</sup> Dist. Cuyahoga 100327, 2014 Ohio 3411.

Fifth, Relator has not raised a viable claim against any Respondent and therefore a change of venue is not warranted.

Sixth, this court cannot order disbarment or disciplinary action in this matter for an attorney or judge. The Ohio Rules for Government of the Bar holds exclusive jurisdiction for conducting disciplinary matters involving attorneys and judges.

Finally, the Second District Court of Appeals needs no reminder of their obligations to Relator, nor is a handwritten letter of apology necessary.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nicole Rutter-Hirth", is written above a horizontal line.

**Nicole Rutter-Hirth (#0081004)**

**JON PAUL RION (#0067020)**

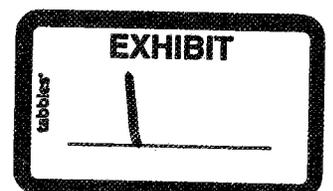
**RION, RION & RION, L.P.A., INC.**

Attorney for Respondent Barton

Search results for barton, douglas  
1 Match Displayed

1 **Concerning:** Barton, Douglas C.  
**D.B.A./A.K.A.:**  
**Filed:** 01/08/2014  
**Arr. Agency:** N/A

**Case #:** [CV11400028](#)  
**Docket Entry:** [Click](#)  
**Charge:** SMALL CLAIMS  
**Case Type:** Small Claims



### Fairborn Municipal Court

### Information on small claims case number CVI 1400028

[Click for Docket Entries](#)

#### Plaintiff(s)

Plaintiff 1: BARTON, DOUGLAS C.  
 Plaintiff 2:  
 Plaintiff 3:  
 Plaintiff 4:  
 Plaintiff 5:  
 Plaintiff 6:

Attorney 1:  
 Attorney 2:  
 Attorney 3:  
 Attorney 4:  
 Attorney 5:  
 Attorney 6:

#### Defendant(s)

Defendant 1: BARTON, KEESHA A  
 Defendant 2:  
 Defendant 3:  
 Defendant 4:  
 Defendant 5:  
 Defendant 6:

Attorney 1:  
 Attorney 2:  
 Attorney 3:  
 Attorney 4:  
 Attorney 5:  
 Attorney 6:

#### Miscellaneous Case Information

Hearing Type: SC  
 Hearing Date: 02/19/2014  
 Hearing Time: 10:30 AM  
 Disposition Date: 02/20/2014

Filing Date: 01/08/2014  
 Cause of Action: SMALL CLAIMS  
 Presiding Judge: BWR  
 Claim Amount: 3000.00  
 Satisfied Date:

#### Disposition Information

Judgment Date: 02/20/2014  
 Disposition: DISMISSED  
 Amount:

Interest From:  
 Interest Rate:  
 Satisfied:

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**Fairborn Municipal Court****Docket entry on civil case number CVI 1400028**

[Click for case information](#)

**Case Number:** CVI 1400028

**Defendant(s):** BARTON, KEESHA A

**01/08/2014**

- CASE WAS FILED WITH COURT
- HEARING-02/19/2014 10:30 AM - SMALL CLAIMS HR
- SMALL CLAIMS FILING FEE \$55.00
- PAYMENT - RECEIPT NO. 1121624 IN THE AMOUNT OF \$ 55.00

**01/09/2014**

- E-CERTIFIED MAIL # 7196 9006 9297 1656 6575
- ISSUED ON: 01/09/2014 TO: BARTON, KEESHA A
- SENT BY: LNEVILLE

**01/27/2014**

- E-CERTIFIED MAIL # 7196 9006 9297 1656 6575 REFERENCE # 4307
- SERVED ON: 01/13/2014 TO: BARTON, KEESHA A
- SIGNED BY: KEESHA BARTON

**02/07/2014**

- DEFENDANT'S PRO SE MOTION TO DISMISS OR TRANSFER CASE

**02/10/2014**

- ENTRY FILED; BEFORE THE COURT IS DEFENDANT'S MOTION TO
- DISMISS OR TRANSFER FOR LACK OF SUBJECT MATTER
- JURISDICTION. THIS MOTION WILL BE ADDRESSED BY THE
- MAGISTRATE ON 2/19/2014.

**02/11/2014**

- COUNTERCLAIM FILED, \$30.00
- PAYMENT - RECEIPT NO. 1122303 IN THE AMOUNT OF \$ 30.00
- E-CERTIFIED MAIL # 9314 8699 0440 0000 1169 48
- ISSUED ON: 02/11/2014 TO: BARTON, DOUGLAS C.
- SENT BY: LNEVILLE
- DEFENDANT'S PRO SE MOTION TO DISMISS OR TRANSFER CASE

**02/18/2014**

- ORDER FILED; IN ADDITION TO DEFENDANT'S MOTION TO DISMISS,
- THE DEFENDANT HAS FILED A COUNTERCLAIM AND A MOTION TO
- TRANSFER. THESE MATTERS WILL BE ADDRESSED BY THE
- MAGISTRATE ON 2/19/14 AT 10:30 AM.

**02/19/2014**

- PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION
- TO DISMISS FILED.
- PLAINTIFF'S MOTINO TO DISMISS TO DEFENDANT'S COUNTERCLAIM
- FILED.

**02/20/2014**

- DECISION AND ENTRY FILED; THIS MATTER WAS SET FOR A HEARING
- UPON PLAINTIFF'S SMALL CLAIMS COMPLAINT, DEFENDANT'S COUNTER
- CLAIM AND VARIOUS MOTIONS ON 2/19/2014. BOTH PLAINTIFF AND

- DEFENDANT APPEARED. THE PARTIES ARE MARRIED AND HAVE A
- DISMISSED AS TO BARTON, KEESHA A
- PENDING DIVORCE ACTION IN GREENE COUNTY DOMESTIC RELATIONS
- COURT, CASE 2013DR00207. THIS ACTION WOULD REQUIRE THIS
- COURT TO INTERPRET A PRENUPTIAL AGREEMENT AND DETERMINE
- MARITAL PROPERTY WHICH IS BEYOND THE JURISDICTION OF SMALL
- CLAIMS. THEREFORE, THE PLAINTIFF'S COMPLAINT AND
- DEFENDANT'S COUNTERCLAIM ARE HEREBY DISMISSED FOR LACK OF
- JURISDICTION OF THESE MATTERS. EACH PARTY BEARS THEIR OWN
- COSTS.

**02/24/2014**

- PRAECIPE TO COURT REPORT FOR TRANSCRIPT OF PROCEEDINGS
- FILED BY KEESHA A BARTON

**03/07/2014**

- E-CERTIFIED MAIL # 9314 8699 0440 0000 1169 48 REFERENCE # 4
- SERVED ON: 02/18/2014 TO: BARTON, DOUGLAS C.
- SIGNED BY: DOUGLAS BARTON

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FILED  
JOHN P. HEHMAN  
CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
Western DIVISION

2014 JAN -2 PM 3:09

U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
WESTERN DIV. DAYTON

Douglas C. Barton

(Enter Above the Name of the Plaintiff in this Action)

vs.

Steven L. Hurley

(Enter above the name of the Defendant in this Action)

3:14 cv 001

WALTER HERBERT RICE

SHARON L. OVINGTON

If there are additional Defendants, please list them:

Cynthia Martin

Kimberly Metzler-Stump

Sheri Hall

COMPLAINT

I. Parties to the action:

Plaintiff: Place your name and address on the lines below. The address you give must be the address where the court may contact you and mail documents to you. A telephone number is required.

Douglas C. Barton

Name - Full Name Please - PRINT

437 Warwick Place

Street Address

Fairborn, OH 45324

City, State and Zip Code

513-508-7515

Telephone Number

If there are additional Plaintiffs in this suit, a separate piece of paper should be attached immediately behind this page with their full names, addresses and telephone numbers. If there are no other Plaintiffs, continue with this form.



Defendant(s):

Place the name and address of each Defendant you listed in the caption on the first page of this Complaint. This form is invalid unless each Defendant appears with full address for proper service.

1. Steven L. Hurley  
Name - Full Name Please  
595 Ledbetter Road Xenia, Ohio 45385  
Address: Street, City, State and Zip Code
2. Cynthia Martin  
595 Ledbetter Road Xenia, Ohio 45385
3. Kimberly Metzler-Stump  
595 Ledbetter Road Xenia, Ohio 45385
4. Sheri Hall  
595 Ledbetter Road Xenia, Ohio 45385
5. \_\_\_\_\_
6. \_\_\_\_\_

If there are additional Defendants, please list their names and addresses on a separate sheet of paper.

II. Subject Matter Jurisdiction

Check the box or boxes that describes your lawsuit:

- Title 28 U.S.C. § 1343(3)  
[A civil rights lawsuit alleging that Defendant(s) acting under color of State law, deprived you of a right secured by federal law or the Constitution.]
- Title 28 U.S.C. § 1331  
[A lawsuit "arising under the Constitution, laws, or treaties of the United States."]
- Title 28 U.S.C. § 1332(a)(1)  
[A lawsuit between citizens of different states where the matter in controversy exceeds \$75,000.]
- Title 42 United States Code, Section 1983  
[Other federal status giving the court subject matter jurisdiction.]

III. Statement of Claim

Please write as briefly as possible the facts of your case. Describe how each Defendant is involved. Include the name of all persons involved, give dates and places.

Number each claim separately. Use as much space as you need. You are not limited to the papers we give you. Attach extra sheets that deal with your statement claim immediately behind this piece of paper.

On 11/27/2013 Cynthia Martin held an ex-parte hearing and granted a protection order against me (2013-DV-0193). The full hearing was scheduled for 12/4/2013 at 9:30 am. I presented myself to the court at 9 am on 12/4/2013 Sheri Hall informed me the Plaintiffs attorney had requested a continuance. I stated I did not agree to a continuance and the court had to provide me a hearing within in 7 days. Sheri Hall then made a point that the protection order was still valid. There was no agreement by myself to a continuance. There was no good cause for a continuance, I had presented myself to the court at the appointed time. As of 1/2/2014 there is no date for a hearing scheduled. The Greene County website CourtView shows the case has been continued. Kimberly Metzler-Stump was the magistrate who heard my complaint in case 2013-DV-0196 on 11/2/2013. Keesha A. Barton was arrested for Domestic Violence on 6/26/2013 by Fairborn Police Department for acts committed against me. Fairborn Municipal Court CRB 1301210, she plead to a lesser charge of Disorderly Conduct and was convicted of that offense. As part of the agreement (11/26/2013) with the Fairborn Victims Advocate and Fairborn Prosecutor, Keesha A. Barton was to take no further action and willing agree to a protection order issued through Greene County Domestic Relations Court (DRC). Keesha A. Barton did not follow this agreement, and proceeded to file against me (2013-DV-0193) on 11/27/13. When I arrived at Greene Co. DRC on 11/27/2013 I was informed that I would have to return on 11/2/2013, and they would not hear my complaint. They had already processed the paperwork for 2013-DV-0193 unbeknownst to me at that time . During my hearing on 12/2/2013 (2013-DV-0196) I voiced complaints of bias and prejudice and for them to honor the agreement from Fairborn Municipal Court. The Greene County DRC has demonstrated bias and prejudice against me as a male. The Green County DRC is continuing to violate my civil rights by not providing due process with no foreseeable means of a remedy. Steven L. Hurley is the Judge of Greene County DRC, and failed to properly supervise the Magistrates and Staff under his supervision.

**Demand for Jury Trial**

IV. Previous lawsuits:

If you have been a Plaintiff in a lawsuit, for each lawsuit state the case number and caption.  
(Example, Case Number: 2:08-cv-728 and Caption: John Smith vs. Jane Doe).

<u>Case Number</u>	<u>Caption</u>	
_____	_____	vs. _____
_____	_____	vs. _____
_____	_____	vs. _____

V. Relief

In this section please state (write) briefly exactly what you want the court to do for you. Make no legal argument, cite no case or statutes.

**Wherefore plaintiff prays this Court issue equitable relief as follows:**

Issue emergency injunctive relief commanding defendant(s) to rescind protection order associated with Case 2013-DV-0193.

Issue permanent injunctive relief commanding defendant(s) to dismiss with prejudice 2013-DV-0193.

Issue permanent injunctive relief preventing defendant(s) from issuing any future orders without a full hearing.

Issue monetary damages of \$200,000 per day from 11/27/2013.

Issue declaratory relief as this Court deems appropriate and just.

Issue other relief as this Court deems appropriate and just.

Award plaintiff his costs of litigation.

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I state under penalty of perjury that the foregoing is true and correct. Executed on

this 2 day of January, 2014.



\_\_\_\_\_  
Signature of Plaintiff

**CIVIL COVER SHEET**

JS 44 (Rev. 12/12)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p><b>I. (a) PLAINTIFFS</b> Douglas C. Barton</p> <p>(b) County of Residence of First Listed Plaintiff <u>Greene Co (Ohio)</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number)</p>	<p><b>DEFENDANTS</b> Steven L. Hurley, Cynthia Martin, Kimberly Metzler-Stump, Sheri Hall,</p> <p>County of Residence of First Listed Defendant <u>Greene Co (Ohio)</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

<p><b>CONTRACT</b></p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p><b>TORTS</b></p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p><b>PERSONAL PROPERTY</b></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><b>FORFEITURE/PENALTY</b></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><b>LABOR</b></p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p><b>IMMIGRATION</b></p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p><b>BANKRUPTCY</b></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><b>PROPERTY RIGHTS</b></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p><b>SOCIAL SECURITY</b></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><b>FEDERAL TAX SUITS</b></p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS--Third Party 26 USC 7609</p>	<p><b>OTHER STATUTES</b></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
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**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District (specify)     6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 U.S.C. § 1983

Brief description of cause:  
Deprivation of civil rights of due process-Fifth and Fourteenth Amendments of U.S. Constitution

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 4,000,000.00

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 2 JAN 2014 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

DOUGLAS C. BARTON,

:

Plaintiff,

v.

:

Case No. 3:14-cv-001

STEVEN L. HURLEY, *et al.*,

:

JUDGE WALTER H. RICE

Defendants.

:

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DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #20);  
OVERRULING PLAINTIFF'S OBJECTIONS THERETO (DOC. #22);  
SUSTAINING DEFENDANTS' MOTION TO DISMISS (DOC. #11);  
OVERRULING PLAINTIFF'S MOTION FOR EMERGENCY INJUNCTIVE  
RELIEF (DOC. #21); TERMINATION ENTRY

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On March 27, 2014, United States Magistrate Judge Sharon L. Ovington issued a Report and Recommendations (Doc. #20), recommending that the Court sustain Defendants' Motion to Dismiss (Doc. #11), and dismiss Plaintiff's Complaint with prejudice. She found that Defendants were entitled to absolute judicial immunity on Plaintiff's claim for money damages, and that the abstention doctrine set forth in *Younger v. Harris*, 401 U.S. 37 (1971), barred Plaintiff's claim for injunctive relief. Plaintiff filed timely Objections to the Report and Recommendations (Doc. #22). He also filed another Motion for Emergency Injunctive Relief (Doc. #23), asserting the same arguments raised in his Objections.

Based on the reasoning and citations of authority set forth by the Magistrate Judge in her March 27, 2014, Report and Recommendations, as well as upon a thorough *de novo* review of this Court's file and the applicable law, this Court ADOPTS said judicial filing (Doc. #20) in its entirety, and OVERRULES Plaintiff's Objections thereto (Doc. #22). In overruling the Objections, the Court notes that "[t]he policies underlying *Younger* are fully applicable to noncriminal judicial proceedings when important state interests are involved." *Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423, 432 (1982). For the same reasons, the Court OVERRULES Plaintiff's Motion for Emergency Injunctive Relief (Doc. #21). The Court SUSTAINS Defendants' Motion to Dismiss (Doc. #11), and DISMISSES Plaintiff's Complaint WITH PREJUDICE.

Judgment will be entered in favor of Defendants and against Plaintiff.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: April 10, 2014

  
\_\_\_\_\_  
WALTER H. RICE  
UNITED STATES DISTRICT JUDGE

FILED  
FAIRBORN MUNICIPAL COURT

2015 JAN -2 AM 10:44

FAIRBORN GREENE COUNTY  
SUSAN K. ANDERSON  
CLERK OF COURTS

IN THE MUNICIPAL COURT OF FAIRBORN, OHIO

STATE OF OHIO,

CASE NO. CRB1301210

Plaintiff,

v.

JUDGMENT ENTRY  
(APPROVAL OF SEALING  
OF CONVICTION AND ALL  
OFFICIAL RECORDS)

KEESHA A. BARTON,

Defendant.

This matter came before this Court upon Defendant's Application for sealing of the Defendant's record of conviction in the Fairborn Municipal Court.

The Court finds that the Defendant has timely filed for the sealing of her record; the Defendant is an eligible offender; the Defendant has no criminal proceedings pending against her; the Prosecutor's Office has no objection as to the sealing of record in this case; the Defendant is rehabilitated; and the interest of the Defendant in having her record pertaining to her arrest and conviction in this case sealed outweighs any legitimate governmental need to maintain said record.

Therefore, it is hereby ORDERED that all official records, including the arrest, pertaining to this matter, Case No. CRB1301210, shall be sealed and all indexed references thereto shall be deleted; that the proceedings of said case shall be deemed not to have occurred; and that the Defendant's conviction shall be sealed, subject to the exceptions and provisions set forth in Revised Code Section 2953.32 as now enacted and as hereinafter amended.

FAIRBORN MUNICIPAL COURT I do hereby  
certify this to be a true and correct  
copy of the original filed in this court  
on the 2nd day of Jan 2015.  
Witness by my hand and seal of this  
court this 2nd day of Jan 2015.  
Linda A. Tubner  
Clerk/Jen Clerk



The Court ORDERS that the Clerk of Court seal the record and notify law enforcement authorities in accordance with Ohio Revised Code Sections 2953.31 through 2953.35.

IT IS SO ORDERED.



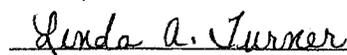
\_\_\_\_\_  
BETH W. ROOT, JUDGE

**In this day and age of information technology, it is virtually impossible to extract information from every computer and database. Those listed below have been ordered to seal your record. If you believe any other agency should be notified, it is your responsibility to contact that agency with your certified copy.**

Certificate of Service

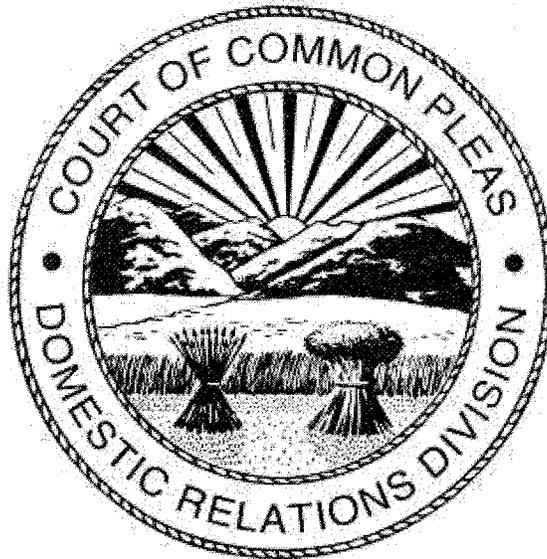
The undersigned hereby certifies that a copy of the foregoing was served upon Betsy Deeds, Prosecuting Attorney, and the Records Dept. of Fairborn Police Dept., and the Records Dept. of Greene Co. Sheriff's Office, through interoffice mail; and Charles W. Slicer, III, Attorney for Defendant, 111 W. First St. Ste 518, Dayton, OH 45402, and Ohio BCI&I, Identification Section, P.O. Box 365, London, OH 43140, and Intellicorp, 3000 Auburn Ave., Ste 410, Beachwood, OH 44122, and Christopher Perrucci, Attorney at Law, P.O. Box 247, Chagrin Falls, OH 44022-0247, by regular U.S. mail; and Advantage Data, by FAX; and Defendant, by personal service; on this 2<sup>nd</sup> day of

January, 2015.

  
\_\_\_\_\_  
Linda A. Turner

**MONTGOMERY COUNTY  
DOMESTIC RELATIONS  
COURT**

**LOCAL  
RULES OF COURT**



**EFFECTIVE  
FEBRUARY 1, 2014**



**RULE 4.16**  
**MOTION TO VACATE PREMISES**

**(A) Contents of Motion.** A motion to vacate premises shall state with specificity the reasons for the motion and shall be supported by an affidavit. The motion may be set for a hearing.

**(B) When Granted.** A motion to vacate premises may be granted after a hearing if the movant establishes that the opposing party:

- (1) Attempted to cause or recklessly caused bodily injury by acts of physical violence, or;
- (2) Placed a party, by threat of force, in fear of imminent serious physical harm, or;
- (3) Committed any act with respect to a child that would result in the child being an abused child as defined in R.C. 2151.031, or;
- (4) Engaged in conduct or creates an environment which causes or is likely to cause severe emotional and/or mental stress to the spouse and/or minor children of the parties.

**PRETRIAL AND TRIAL RULES**

**RULE 4.17**  
**TEMPORARY RESTRAINING ORDERS**  
**AND EX PARTE ORDERS**

**(A) Temporary Restraining Orders.** *Ex parte* temporary restraining orders may be requested by either party after the commencement of a divorce, annulment, or legal separation case. Such requests shall be made by separate motion supported by an affidavit of the party. *Ex parte* temporary restraining orders shall be made by separate order and shall be granted for the following purposes:

- (1) **Abuse:** Plaintiff/defendant is hereby restrained from abusing, annoying, harassing, molesting, threatening or injuring plaintiff/defendant and the minor child(ren).
- (2) **Removal of Children:** Plaintiff/defendant is hereby restrained from removing the minor child(ren) from the State of Ohio, except temporarily (14 days or less) for vacation.
- (3) **Property:** Plaintiff/defendant is hereby restrained from damaging, moving, selling, giving away, transferring, disposing of, or encumbering any existing or later-acquired interest of either party in any real or personal property, with the intent to permanently deprive, except plaintiff/defendant's clothing, tools of trade, and personal effects.

# **COURT OF COMMON PLEAS**

## **DARKE COUNTY, OHIO**

**Civil, Criminal and Domestic Relations Divisions**

\* \* \* \* \*

### **LOCAL RULES OF PRACTICE**

(Effective January 1, 2010)

**THE COMMON PLEAS COURT OF DARKE COUNTY, OHIO**

**Civil, Criminal, and Domestic Relations Divisions**

**Darke County Courthouse, Second Floor  
504 South Broadway  
Greenville, Ohio 45331**

**(937) 547-7325  
fax: (937) 547-7323  
commonpleas@co.darke.oh.us**

**Jonathan P. Hein, Judge**



fixed in journal entries which are approved by counsel of all other parties in the case.

## **RULE 7 PRACTICE IN DOMESTIC RELATIONS CASES**

**A. Personal History.** In each and every case in which the relief demanded includes a divorce, dissolution, legal separation, or spousal support, there shall be presented by the Plaintiff with the Complaint a Questionnaire on a yellow colored form which may be obtained from the Clerk, containing a personal history of the parties of the action. The Defendant may present a similar Questionnaire at the time of filing an Answer or Cross-Complaint. The Clerk shall not accept for filing any Complaint in a divorce, dissolution, legal separation action unless the Questionnaire is presented. Each party requesting support or spousal support shall file a completed Affidavit of Income and Expenses. information contained in said Affidavit shall be treated in the hearing and considered the cause of action as though it were obtained in answer to questions propounded by the party filing such statement and shall be the subject of cross-examination.

**B. Confidentiality of Identifying Information.** No complete social security number or date of birth for any party shall be included on pleadings filed with the Clerk of Courts. Instead, the following information shall be included: (1) first five digits of the social security number; and (2) month and year of birth. To assist with accurate identification of a party,

when any domestic relations case is filed or any motion to invoke the Court's continuing jurisdiction is filed, the party or their counsel shall provide on a separate pleading the full name, complete social security number, complete date of birth, and maiden name (if applicable). This information shall be maintained by the Court in a confidential file which shall be available only to Court personnel, personnel from the Department of Jobs and Family Services (for support collection purposes) and others upon Court approval for good cause shown.

**C. Temporary Orders.**

- (a) Counsel are directed to the provisions of Civil Rule 75(I) and 75(M) with regard to general provisions for Temporary Orders. Granting *ex parte* temporary orders can serve the interests of the parties but orders will be considered on a case by case basis depending on the facts presented.
- (b) Excepting requests to mutually restrain the disposal of assets, requests for *ex parte* orders should not be made when the parties have both retained counsel who have been attempting to resolve marital conflict or conclude marital issues. If both parties have counsel, a movant shall notify the other counsel of their belief in the need for temporary Orders and contact the Court for a time to discuss the matter. Otherwise, pleadings alone are usually sufficient for the Court to determine appropriate Orders although counsel may be required to appear to explain case circumstances or otherwise justify the motions.
- (c) Motions seeking *ex parte* Orders defining residential placement of minor children, payment of support and medical expenses for children, visitation and similar children-related issues may be granted at the discretion of the Court. Parties seeking this relief shall file supporting affidavits providing detailed information which would support the motion, including statements regarding the past and current caretakers of the child(ren). Vague and broadly written affidavits are discouraged as not likely to assist the Court in making a decision.
- (d) Motions seeking Orders for spousal support by cash or in-kind payment will be set for hearing or deadline for written response with notice to the opposing party, permitting reply within the time permitted by the notice (generally 10 to 14 days after filing the notice).
- (e) Motions for the exclusive occupancy of a motor vehicle or residence will be sparingly granted without a hearing or deadline for written response and usually under such circumstances where the movant shows there will be little inconvenience to the other party, such as the parties having multiple motor vehicles or one party having already vacated the residence for some reasonable period of time.

FILED

2014 DEC 24 AM 10:08

COURT OF APPEALS  
GREENE COUNTY  
CLERK OF COURTS

THE COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT  
GREENE COUNTY

DOUGLAS C. BARTON

*Plaintiff-Appellant*

v.

KEESHA A. BARTON

*Defendant-Appellee*

: Appellate Case No. 2014-CA-46

: Trial Court Case No. 13-DR-207

**MAGISTRATE'S ORDER**

December 24, 2014

On December 9, 2014, appellant has requested leave to file a brief in excess of twenty-five [25] pages. The motion is GRANTED. Appellant's brief shall not exceed thirty-five [35] pages.

SO ORDERED.



ERIN E. SCANLON, Magistrate

Copies to:

Douglas Barton  
437 Warwick Place  
Fairborn, Ohio 45324

Charles Slicer, III  
111 W. First St., Ste. 518  
Dayton, Ohio 45402

CA1/MM

14-12-3329

THE COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT



FILED

2014 DEC 29 PM 1:35

COURT OF APPEALS  
GREENE COUNTY  
CLERK OF COURTS

IN THE COURT OF APPEALS  
SECOND APPELLATE DISTRICT OF OHIO  
GREENE COUNTY, OHIO

DOUGLAS BARTON

Plaintiff-Appellant, Pro Se

Vs.

KEESHA BARTON

Defendant-Appellee

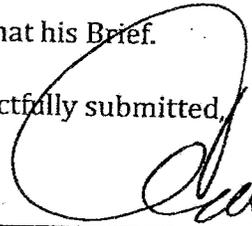
\* Case No: 2014-CA-0046  
\* Trial Court Case No: 2013-DR-0207  
\* Judge Timothy Campbell  
\* MOTION TO STRIKE AND  
\* OTHER RELIEF

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Now comes Defendant-Appellee, **Keesha Barton**, by and through counsel, Charles W. Slicer, III, and respectfully asks this Honorable Court to strike the Brief of Plaintiff-Appellant, Douglas C. Barton and Oral Argument Request filed in the above-captioned matter on December 15, 2014. A Memorandum in Support of this Motion is attached hereto and incorporated herein by reference.

Alternatively, the Appellant be ordered to reformat his Brief.

Respectfully submitted,



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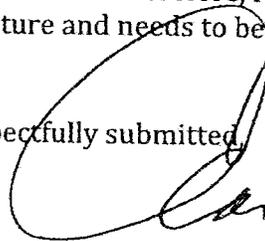
Charles W. Slicer, III (#0059927)  
Attorney for Defendant-Appellee  
111 West First Street, Suite 518  
Dayton, OH 45402  
(937) 223 - 1100  
(937) 223 - 8150 (Fax)

**MEMORANDUM IN SUPPORT**

Pursuant to the Court Docket, the Plaintiff-Appellant filed a Notice of Appeal on October 10, 2014, but did not request transcripts at that time. The Plaintiff-Appellant then filed a Pro Se Emergency Motion to Prepare Transcripts of Proceedings at States Expense on October 28, 2014. Said Motion was denied by the Court on December 15, 2014 and has allowed the Plaintiff-Appellant 20 days from the date of the Decision to Complete the Record.

Further, the Plaintiff-Appellant filed a Brief on or about December 15, 2014 which totaled 79 pages. Pursuant to Local Rules, the Plaintiff-Appellant shall not file a Brief with the Court that exceeds 25 pages without prior approval by way of Entry of this Court. The Plaintiff-Appellant filed a Petition for Leave of Court to File Brief Longer than 25 Pages on December 9, 2014. Said Motion has not been ruled on to date. Therefore, Plaintiff-Appellant's Brief filed on December 15, 2014 is premature and needs to be stricken from the Court's record until a Decision is rendered.

Respectfully submitted,

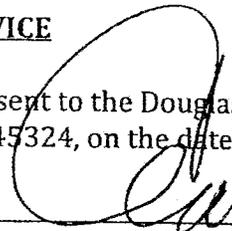


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Charles W. Slicer, III (#0059927)  
Attorney for Defendant-Appellee  
111 West First Street, Suite 518  
Dayton, OH 45402  
(937) 223 - 1100  
(937) 223 - 8150 (Fax)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was sent to the Douglas C. Barton, the Plaintiff-Appellant, 437 Warwick Place, Fairborn, Ohio 45324, on the date of filing herein.



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Charles W. Slicer, III (#0059927)  
Attorney for Defendant-Appellee