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COURT OF COMMON PLEAS, CIVIL DIVISION  
GREENE COUNTY  
XENIA, OHIO

GREENE COUNTY  
FILED  
1999 MAR 31 AM 11:20  
TERESA J. TAYLOR, CLERK  
COMMON PLEAS COURT  
GREENE COUNTY, OHIO

99 CV 0180

JUDGE REID #3

RAY POWERS and MARIA POWERS  
1073 Long Road  
Xenia, OH 45385

Case No.

Plaintiffs,

vs.

COMPLAINT AND JURY DEMAND

WESLEY and MARY TINCHER  
1083 Long Road  
Xenia, OH 45385

SERVE: Wesley Tinchler  
1083 Long Road  
Xenia, OH 45385

SERVE: Mary Tinchler  
1083 Long Road  
Xenia, OH 45385

Defendant.

NOW COMES the above Plaintiffs, Ray and Marie Powers, by and through the undersigned counsel, and does the state the following facts to be the basis of his Complaint.

1. Ray Powers and Marie Powers have been life long residents of Greene County, Ohio.
2. Wesley and Mary Tinchler has been a resident of Greene County, Ohio, for at least a year preceding the following of this action.
3. The cause of this action is taking place at the property located at 1073 Long Road, and 1083 Long Road, Xenia, Greene County, Ohio.
4. Ray and Marie Powers have lived at their residence of 1073 Long Road, Xenia, Ohio, in excess of twenty years.

LBROOK & ASSOCIATES  
Attorneys at Law  
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5. Mr. and Mrs. Wesley Tincher bought approximately fifty acres of land located at 1083 Long Road, Xenia, Ohio, over two years ago.

6. Approximately a year ago, Mr. Tincher began causing Ray and Marie Powers multiple problems.

7. The Tinchers constructed a garage at 1083 Long Road, have set up residency in that garage, and have not built a home on this property.

8. The Tinchers decided to build this garage within feet of the Powers' property line, even though the Tinchers owned fifty acres in which he could have placed this structure.

9. The Tinchers, who lives downstream from Mr. Powers, intentionally built their bridge too small for the water flow to go through when there would be heavy rains in the area, therefore causing Mr. Powers' land to flood, or be at great risk for flooding.

10. Mr. Powers tried to speak with the Tinchers about this, and Mr. Tincher became belligerent, cursing, giving obscene gestures, as well as participated in other unacceptable located on the property at 1073 Long Road, and belonging to the Powers.

11. Mr. Tincher has taken the Powers' dog, pulled him over the fence, removed the electronic monitoring collar from dog, and not giving it back to Mr. Powers.

12. On or about September 28, 1998, Mr. and Mrs. Powers felt so threatened that they filed an anti-stalking protection order with the Green County Municipal Court.

13. Mr. Tincher and his wife continuously come to Mr. Powers' property line cursing at him, giving him the finger, and threatening he and his wife. **This has effected Mrs. Powers so much that she has had to get a gun to protect herself.**

14. On numerous occasions when Mr. and Mrs. Powers go out to feed their livestock, they find that their chicken coops, which are next to Mr. Tincher's property, are overturned. This

is a direct result of Mr. Tinchler coming onto Mr. Powers' property, injuring his property, and his livestock. Further, the Tinchers installed an electric fence on his property which is in direct violation of the Ohio Revised Code 971.03 (B). He did this without getting the permission of Mr. Powers, thus, endangering his livestock.

15. The Tinchers continue to allow their dogs to come onto to the Powers' property, killing and threatening his livestock. Mr. Powers continue to return the dogs to Mr. and Mrs. Tinchler, and they refuse to keep their dogs confined.

16. Mr. and Mrs. Tinchler have made verbal threats and gestures to Mr. Powers while he and his grandson were out fishing on Mr. Powers' property.

17. Mr. and Mrs. Tinchler continues to make obscene gestures, and language to Mr. and Mrs. Powers when they are out trying to take care of their livestock and property.

18. The above actions have caused Mr. and Mrs. Powers to file multiple criminal charges against Mr. Tinchler with the local authorities.

19. The above actions of Mr. and Mrs. Tinchler, combined with others to be disclosed through discovery, have caused Mr. and Mrs. Powers extreme emotional distress. They have been unable to enjoy their home for the past year. Further, it has resulted in physical and emotional injuries both to Mr. and Mrs. Powers.

**FIRST CAUSE OF ACTION**  
**Loss of Quiet Enjoyment**

20. Plaintiffs restate and allege paragraphs 1 - 19 as if fully rewritten herein.

21. The Tinchers have adversely affected the health and safety of Mr. and Mrs. Powers, and has disturbed the right of their quiet enjoyment of their premises.

22. The Tinchers' actions has had an adverse financial, emotional, as well as a physical impact on Mr. and Mrs. Powers.

23. The Tinchers have been made aware that his actions have caused this loss of quiet enjoyment, and distress, however, he continues to behave in such a manner as to continually effect Mr. and Mrs. Powers adversely.

24. As a direct and proximate result of said actions, Mr. and Mrs. Powers have been denied peaceable use and enjoyment of said property.

25. As a result of the above, Mr. and Mrs. Powers seek damages in excess of the amount of the minimal jurisdiction of this court.

## SECOND CAUSE OF ACTION

### Trespass

26. Plaintiffs restate and allege paragraphs 20 - 25 as if fully rewritten herein.

27. Mr. Tincher has entered onto the land of Mr. and Mrs. Powers located at 1073 Long Road, Xenia, Ohio, 45385, without the permission of Mr. and Mrs. Powers.

28. Mr. and Mrs. Powers have continually told Mr. Tincher to stay off of their property physically, as well as keeping his dogs and other animals off of their property. Mr. Tincher has ignored the continual pleadings of Mr. and Mrs. Powers, and have continued to trespass onto their land without their permission, causing multiple damages as stated above, and further to be proved in a court of law.

29. As a direct and proximate result of the above trespass, the Powers have suffered financial, physical, and emotional damages, and will continue to incur those damages well into the future.

30. As a result of the above, Mr. and Mrs. Powers seek damages in excess of the amount of the minimal jurisdiction of this court.

**THIRD CAUSE OF ACTION**  
**Intentional Infliction of Emotional Distress**

31. Plaintiffs restate and allege paragraphs 26 - 30 as if fully rewritten herein.

32. Defendant's harassment of Mr. and Mrs. Powers as described in the preceding paragraphs, constitute an intentional, malicious, and/or reckless conduct that exceeds all bounds of decency, and that was such of an extreme nature, that no person can be expected to endure.

33. As a direct and proximate result of the Defendant's intentional infliction of emotional distress, Mr. and Mrs. Powers **have suffered, and will continue to suffer into the future, economic, emotional, physical, as well as severe emotional and mental distress, in which the stress has manifested itself in many emotional and physical destructive ways.**

34. As a result of the above, Mr. and Mrs. Powers seek damages in excess of the amount of the minimal jurisdiction of this court.

**WHEREFORE**, Mr. and Mrs. Powers request this court to enter a judgment in their favor against the Defendant in an amount exceeding \$100,000.00 to compensate them for all the above mentioned damages, as well as attorneys fees, litigation expenses, court costs, punitive damages, and any and all other relief as may be just and reasonable by this honorable court.

Respectfully submitted,

HOLBROOK & ASSOCIATES

BY: 

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105 West Fourth Street  
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**JURY DEMAND**

Plaintiffs, by and through counsel, hereby demand a trial by jury.

BY: 

Joni Elizabeth Statzer (0067179)

**PRAECIPE**

Service to be made on all Defendants by sheriff, returnable according to law.