

**Law Offices of John M. Kirby, P.L.L.C.**

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May 13, 2016

TO WHOM IT MAY CONCERN

RE: Ken Bryant v. PRN

It was not Mr. Bryant's intention to present any response to the one-sided postings by NC PRN. He did not want to comment on pending litigation as that is not appropriate, but he now has no choice as the propaganda put forth by NC PRN has created a great deal of confusion. In hopes of clarifying some of these issues, below are a few points addressing issues raised by NC PRN, and attached is a Complaint that was recently filed in response to NC PRN's false postings.

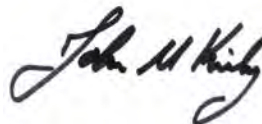
The lawsuit we filed against *only* two persons affiliated with NC PRN was motivated solely to stand up for all ham operators across the country. These persons were sued based on their conduct as operators and operators of a C-bridge, and not based on their conduct as repeater owners. The lawsuit was based on denial of access to the C-bridge, without any process afforded to the radio operator. The actions that NC PRN, and similar actions they have taken against others, are harmful to amateur radio. If NC PRN's conduct is allowed to continue, then all ham operators as a class will suffer.

Contrary to the assertions of NC PRN, they could have easily prevented this lawsuit from being filed, and they could have easily resolved it without paying a dime and without making any sort of public concession. It is NC PRN that has chosen to take this matter public, and it is NC PRN that has chosen to continue the litigation.

The lawsuit we filed is fully supported by North Carolina law, as demonstrated by the fact that a North Carolina Superior Court Judge, after reviewing briefs on the matter and hearing oral arguments, denied NC PRN's motion to dismiss the action.

The lawsuit does not affect any network other than NC PRN. This lawsuit does not affect the personal property of others. The lawsuit does not challenge the FCC jurisdiction over amateur radio; nor does North Carolina law conflict with FCC regulations. Repeater owners remain fully capable of policing their own systems.

Sincerely,



John M. Kirby

JMK



6. The substance of the 2015 Action is that the Defendants wrongfully discontinued the Plaintiff's use of the NC PRN network without affording the Plaintiff any opportunity to respond to the alleged basis for discontinuing his ability to use the network.

7. On May 8, 2016, the Defendants posted false and defamatory statements pertaining to the Plaintiff on their website, [www.ncprn.net](http://www.ncprn.net). Attached as Exhibit II is a true and accurate copy of the website as it existed on May 8, 2016 (along with an update posted on May 9, 2016, as herein after described).

8. The aforementioned website was false in defamatory in numerous ways including but not limited to the following:

- a. It alleges that the Plaintiff was observed contacting radio operators over the air in order to sell radios for his business;
- b. It alleges that the Plaintiff is seeking a minimum of \$10,000 from each defendant.
- c. It alleges that the Plaintiff believes that the FCC does not have jurisdiction over the Amateur Radio service.
- d. It alleges that the Plaintiff believes that "you must give someone Due Process in a court of law before you can stop them from using your personal property." (emphasis in original)
- e. It alleges, "If we lose this lawsuit, this network will have to shut down."
- f. It alleges that the Plaintiff sued 42 repeater owners, when in fact the 2015 Action was against only two repeater owners.

- g. It alleges that “this lawsuit will decide whether you retain your personal property rights after you let someone else use that property, even if it is just once.”
- h. It alleges that “this court case does not just affect the PRN System.”
- i. “This court case affects every repeater owner in the United States, regardless of if it is analog or digital, club owned or privately owned, and will also affect any lending of personal property since it will be precedent that can be used for any type of property, not just radios/repeaters.”

9. The website specifically states, “let every one [sic] know via word of mouth to look at this page . . . .”

10. The website specifically sought donations to defend the 2015 Action, which it described as a “ridiculous lawsuit,” even though the Honorable Kendra Hill denied the Defendants’ motion to dismiss. Attached as Exhibit III is a true and accurate copy of the order of Judge Hill denying the Defendants’ motion to dismiss.

11. The aforementioned statements of the Defendants were defamatory and impugned the Plaintiff’s character and impugned the Plaintiff’s trade and profession in ways including but not limited to the following: the use of amateur radio to sell radios or other property for a profit is unlawful and is taboo in the amateur radio community; the Defendants suggested and implied that the Plaintiff filed the 2015 Action for monetary gain and for an unreasonable and unjustified monetary gain; the FCC clearly has jurisdiction over amateur radio, and to allege that the Plaintiff believes otherwise suggests that the Plaintiff is ignorant of federal laws applicable to amateur radio and that the Plaintiff does not honor such laws; the Plaintiff has never suggested that a member of a radio network is entitled to due process in a “court of law,” which would have

far-reaching and negative implications for amateur radio networks; the 2015 Action does not in any way require the NC PRN network to shut down, and in fact the NC PRN could easily resolve the 2015 Action; by alleging that the Plaintiff sued forty-two repeater owners, the Defendants suggested that the Plaintiff engaged in frivolous and excessive litigation which would be highly disruptive to numerous repeater owners, and further suggested that the Plaintiff was seeking more than \$420,000 in the 2015 Action, which is clearly not the case; the overall thrust of the allegations was that the Plaintiff was intentionally harming the amateur radio community, when in fact the Plaintiff was attempting to help amateur radio operators, and many amateur radio operators feel very passionately about amateur radio.

12. The Defendants are and have been represented by counsel in the 2015 Action and the Defendants understand the true nature of the 2015 Action; in fact, one or both of the Defendants were in court during the hearing on the motion to dismiss.

13. On May 9, 2016, the Defendants provided additional information on the NC PRN website, which “update” is reflected in Exhibit II.

14. Said posting from May 9, 2016, falsely asserted that the motion to dismiss was denied because “the FCC does not have jurisdiction over the Amateur Radio service.”

15. This statement is wholly false in that the Plaintiff’s counsel did not argue and the Superior Court did not find that the FCC does not have jurisdiction over Amateur Radio service.

16. The Defendants are impugning not only the Plaintiff’s character and knowledge of laws and regulations pertaining to amateur radio, but are also impugning and spreading misinformation about the rulings of the Superior Court.

17. This posting from May 9, 2016, also falsely asserts that the Plaintiff's position in the 2015 Action would require every repeater owner "to offer due process in a court before they could tell jammers and miscreants to not use their repeaters."

18. This posting from May 9, 2016, also discloses portions of settlement discussions among counsel for the parties, and inaccurately states that the Defendants made an offer to settle, and inaccurately states that the Plaintiff declined the Defendant's purported settlement offer; said posting omits crucial portions of these negotiations including but not limited to the fact that the Plaintiff filed the 2015 Action to protect the rights of other amateur operators and the driving concern was the due process rights of these other amateur radio operators. It was clearly understood that these were confidential settlement discussions, and these discussions expressly included provisions that portions of any settlement would remain confidential. To disclose such settlement discussions in an inaccurate and distorted fashion is contrary to public policy.

19. The Defendants made the aforementioned false and defamatory postings with the intent of stirring up the amateur radio community in an effort to raise money and to disparage the Plaintiff; the aforementioned postings clearly and expressly seek contributions to Defendant Whitaker and subsequently to a "GoFundMe" page, by which the Defendants seek and accept donations.

20. The Defendants have re-broadcast these allegations on amateur radio group(s) on Yahoo, and they have re-broadcast these allegations on Facebook.

21. Although the Defendants have made the 2015 Action available on their website, the majority of persons viewing the website and witnessing the Defendants' postings are not reading the 2015 Action, but instead are relying on the Defendants' false portrayal of the 2015 Action.

22. Upon information and belief, the Defendants have sent, and have caused to be sent, emails to hundreds or thousands of amateur radio operators disseminating these same false and defamatory statements.

23. The Plaintiff is in the business of selling radio equipment.

24. The Plaintiff sells some radio equipment at cost, without a profit, and also sells some equipment for a profit.

25. As a direct result of the postings on the NC PRN website, persons within the ham radio community have requested that persons having websites listing "ham friendly dealers" remove the Plaintiff from their site.

26. As a direct result of the postings on the NC PRN website, persons within the ham radio community have sent emails and made postings which repeat the allegations made by the Defendants and which continue to impugn the Plaintiff and to damage and harm the Plaintiff's relationships with current and prospective customers.

27. The Plaintiff's reputation has been damaged in the amateur radio community and the Plaintiff has suffered and will continue to suffer economic losses as a result of the Defendants' defamatory and unfair conduct described herein.

28. The statements of the Defendants charges that the Plaintiff has committed an infamous crime, tends to impeach, prejudice, discredit and reflect unfavorably upon the Plaintiff in his trade or profession, and tends to subject the Plaintiff to ridicule, contempt or disgrace.

#### FIRST CLAIM FOR RELIEF

#### (LIBEL)

29. The Plaintiff realleges and incorporates as if fully set forth herein his allegations in Paragraphs 1-28 of the Complaint.

30. The Defendants wrote and caused to be printed false and defamatory statements pertaining to the Plaintiff.

31. The Defendants published these statements.

32. These statements were false.

33. The Defendants intended the statements to charge the Plaintiff with having committed an infamous crime, to impeach the Plaintiff in his trade and profession, and to subject the Plaintiff to ridicule, contempt and disgrace.

34. The persons other than the Plaintiff to whom the statements were published reasonably understood the statement to charge the Plaintiff with having committed an infamous crime, to impeach the Plaintiff in his trade and profession, and to subject the Plaintiff to ridicule, contempt and disgrace.

35. At the time of the publication, the Defendants knew the statements were false and failed to exercise ordinary care in order to determine whether the statements were false.

36. The Plaintiff sustained pecuniary loss as a result of the Defendants' false and defamatory statements.

## SECOND CLAIM FOR RELIEF

### (UNFAIR AND DECEPTIVE PRACTICES)

37. The Plaintiff realleges and incorporates as if fully set forth herein his allegations in Paragraphs 1-36 of the Complaint.

38. The Plaintiff's sale of amateur radio equipment is in and affecting commerce in the State of North Carolina and elsewhere.

39. The Defendants' campaign of disparagement was designed to harm the Plaintiff in his trade by damaging the Plaintiff's reputation among customers and potential customers.



40. The Defendants' campaign of disparagement was also motivated by the Defendants' desire to raise money.

41. The Defendants' publication and repeated publication of false and defamatory materials against the Plaintiff is unfair, deceptive, immoral, opprobrious, contrary to public policy.

42. The Plaintiff has been harmed by the actions of the Defendants as alleged herein.

43. The Plaintiff is entitled to damages from the Defendants.

44. Plaintiff is entitled to treble damages pursuant to G.S. § 75-16 and to attorneys fees pursuant to G.S. § 75-16.1.

### THIRD CLAIM FOR RELIEF

#### (TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS ADVANTAGE)

45. The Plaintiff realleges and incorporates as if fully set forth herein his allegations in Paragraphs 1-44 of the Complaint.

46. The Defendants, individually and by and through their agents, induced third parties to refrain from entering into contract with the Plaintiff without justification.

47. These contracts would have ensued but for the Defendants' interference.

48. The Plaintiff has sustained past and future losses as a result of the Defendants' interference with prospective contracts.

WHEREFORE, Plaintiff prays:

1. That the Plaintiff have and recover damages from the Defendants;
2. That all so triable be tried by a jury;
6. That the costs and attorneys fees be taxed to Defendants; and
7. For any further relief as the Court deems just and proper.

This the 11<sup>th</sup> day of May, 2016.



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N.C. State Bar No.: 20014

# Exhibit I

15CV007454

NORTH CAROLINA FILED

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
15 CVS

WAKE COUNTY

2015 JUN -4 A 10: 26

KENNETH L. BRYANT, )  
WAKE COUNTY, C.S.C. )

Plaintiff )

BY \_\_\_\_\_ )

v. )

COMPLAINT  
(COMP)

NC PRN, an unincorporated association, )

SCOTT L. WHITAKER, WADE D. )

HAMPTON JR., and JOHN DOES 1-40 )

Defendants )

(JURY TRIAL DEMANDED)

NOW COMES the Plaintiff, by and through the undersigned counsel, and as his  
Complaint against the Defendants, alleges the following:

1. The Plaintiff is a citizen and resident of Clay County, North Carolina.
2. The Defendant NC PRN is an unincorporated association composed of the individual Defendants and those persons identified in Paragraph 10, who are members of NC PRN and are located throughout North Carolina, South Carolina, Tennessee, Virginia, West Virginia and Washington, D.C. The majority of these members are in the State of North Carolina, including two members who are residents of Wake County, North Carolina.
3. The Defendant Scott L. Whitaker, KF4DBW, is a citizen and resident of Richmond County, North Carolina.
4. The Defendant Wade D. Hampton Jr., K4ITL, is a citizen and resident of Wake County, North Carolina.
5. The individual Defendants are repeater trustees who operate, own, maintain and/or control a network of repeaters that are used for the NC PRN network to allow amateur

radio communications in the States of North Carolina, South Carolina, Tennessee, Virginia, West Virginia and Washington, D.C.

6. John Does 1-40 are yet unidentified members of NC PRN, including but not limited to some or all of those persons identified in Paragraph 10 of this Complaint, who participated in and consented to the acts of NC PRN described herein; the Plaintiff reserves the right to amend this Complaint to identify these persons at the appropriate time.

7. A repeater is a privately owned radio station under the control of a technician or higher class FCC amateur radio licensee. A repeater in the amateur service is an amateur station that simultaneously retransmits the transmission of another amateur station on a different channel or channels usually to increase the range of other amateur stations.

8. The Defendants own and operate linking equipment (computer software/hardware device) that enables the repeaters to operate as a network, and these devices do not come under the jurisdiction of the FCC.

9. NC PRN is operated as a team effort by the Defendant repeater trustees, and at all times the NC PRN appeared to be acting, and in writing alleged to be acting, under the full authority and consent of the repeater trustees and under the color of authority of the repeater trustees.

10. NC PRN is composed of the individual Defendants and Stephen P. Brown Jr., K1LNX; Joseph C. Meighan III, KB4REC; Stuart R. Whitmire, WB4JGI; William D. Burden III, WB4YNF; Marvin K. Hoffman, WA4NC; Ralph T. Bartlett, W4ZO; Stephen M. Koone, KA4YMY; Fessenden Amateur Radio Society (licensee, Richard D. Marlin, K4OBX); David T. Robinson, N4DTR; Charlotte Metro Amateur Group (licensee Stephen M. Koon, KA4YMZ); John R. Giffin, KB4CTS; Ryan W. Avery, NC4RA; Martin W. Harris, Jr., W4FOT; Jerry S.

Parham, KE4FHH; Thomas W. Talbert Jr., W4SNA; Philip M. Crump, KG4BCC; Defendant Outer Banks Repeater Association (licensee, Andrew S. Darling, W4PCN); Marty L. Norris, W4MLN; James F. Boehner, N2ZZ; Scheart Repeater Club (licensee Charles W. Miller, WR4SC); Charles S. Davis, N4UHF; Matthew P. Littleton, KN4SWB; Marcus W. O'Connor, KK4WTI; Gray L. Fulk, WX4F; Fieldcomm Association (licensee James H Lovelady Jr.); Richmond Amateur Communications Society (licensee David W Kiefer, W4RAT); Samuel L. Simmons, K4MJO; Gregory H. Faust, WR4CV; Alvin E. Crane Jr., W4VSP; Alexander Graham Bell Pioneer Repeater Association (licensee Robert L. Spindle Jr., W3AGB).

11. Operating an amateur (“ham”) radio requires technical knowledge and proficiency.

12. The Plaintiff became a member of NC PRN as an amateur radio operator and was granted full authority to use the NC PRN network, including the ability to receive and send radio communications with the NC PRN network which enabled the Plaintiff to communicate with persons around the world.

13. In February 2015, NC PRN, suddenly and without warning, withdrew the Plaintiff’s privileges in the NC PRN network and banned the Plaintiff for life from using the NC PRN network.

14. In addition, the NC PRN instructed the Plaintiff not to use the local repeaters on the NC PRN network.

15. On February 6, 2015, the Plaintiff contacted NC PRN to inquire as to why he did not have access to the network.

16. On February 6, 2015, a person or persons responding only as "The PRN Team" stated that the Plaintiff had allegedly been observed using the NC PRN system to sell radios and radio-related products allegedly in violation of FCC regulation 97.113(3).

17. On February 6, 2015, the Plaintiff contacted NC PRN and requested that his privileges be restored and explained his use of the NC PRN network.

18. Approximately five weeks later the Plaintiff had received no response to his prior inquiry, and at this time the Plaintiff sent a follow-up email to NC PRN asking again to resolve the matter.

19. Approximately seven weeks after the Plaintiff's initial inquiry from February 6, 2015, NC PRN responded and refused to reinstate the Plaintiff with NC PRN; the Plaintiff was still not given an opportunity to present his version of events and he was not provided with any evidence nor the names of the individual(s) allegedly accusing him of violating said FCC regulation.

20. The Plaintiff implored NC PRN to discuss the matter over the telephone and to meet with him but NC PRN refused to discuss the matter over the telephone and refused to meet the Plaintiff in person despite being at the same venue.

21. The person or persons purportedly acting on behalf of NC PRN failed to identify themselves and would only sign email communications as "The PRN Team."

22. The Plaintiff's ejection from the NC PRN network was widely known because members of NC PRN could no longer communicate with the Plaintiff via the NC PRN system.

23. The Plaintiff is a very well-known individual in DMR (Digital Mobile Radio), and he routinely speaks around the country on DMR.

24. Most of the Plaintiff's contacts in the field of amateur radio around the world have noticed that the plaintiff is no longer reachable by radio by virtue of the Defendants' banning the Plaintiff from the network.

25. FCC regulation 97.113(3) in fact prohibits "Communications in which the station licensee or control operator has a pecuniary interest," and contains several exceptions, including "(ii) An amateur operator may notify other amateur operators of the availability for sale or trade of apparatus normally used in an amateur station, provided that such activity is not conducted on a regular basis."

26. This Defendants' aforementioned allegation that the Plaintiff violated 97.113(3) is wholly false.

27. The Defendant NC PRN failed to report any alleged violations of FCC regulations to the FCC.

28. Overwhelmingly the conversations regarding radio equipment were unsolicited by the Plaintiff and in the vast majority of instances the Plaintiff cited FCC Rule 97.113(3) and asked to remove the conversation from the airwaves in order to comply with FCC regulations.

29. The Plaintiff sells radio equipment to other amateur radio operators at cost, and in fact the Plaintiff's sales to amateur operators operates at a loss.

30. The Plaintiff has donated thousands of dollars in time and equipment to amateur radio clubs and by conducting and financially supporting DMR education outreach nationally and at amateur radio trade shows ("hamfests") around the country.

31. The Defendants banned the Plaintiff from the NC PRN network based on their erroneous interpretation of federal regulatory law, without providing the Plaintiff with any opportunity to rebut these allegations.

32. The Defendants banned the Plaintiff from the NC PRN network based on hearsay and based on unsubstantiated allegations without providing the Plaintiff an opportunity to respond to said allegations.

33. Upon information and belief, other persons who are and/or who have been members of NC PRN have violated NC PRN's rules and protocols and/or FCC regulations and have not been banned from participation in the NC PRN network.

34. The Defendants have unlawfully discriminated against the Plaintiff.

35. The Plaintiff was denied any due process prior to the Defendants' banning the Plaintiff from participation in the NC PRN network.

36. The Plaintiff has repeatedly contacted NC PRN to attempt to resolve this matter.

37. The conduct of the Defendants in banning the Plaintiff from the NC PRN network violated public policy because it was based on a private person's or private persons' interpretation of federal law without means for review by any judicial or quasi-judicial body.

38. The conduct of the Defendants in banning the Plaintiff from the NC PRN network violated public policy because it impeded and did not promote the use of amateur radio communications.

39. Public policy favors the use of amateur radio. See, e.g., Evans v. Board of County Comm'rs, 752 F. Supp. 973, 977 (D. Colo. 1990) ("the federal government's policy in the promotion of amateur radio service"); MacMillan v. Rocky River, 748 F. Supp. 1241, 1245 (N.D. Ohio 1990) (recognizing "the strong federal interest in promoting amateur radio operations"); Hotz v. Rich, 4 Cal. App. 4th 1048, 1057 (Cal. App. 1992) ("Although the subject is generally one for federal regulation, California also has an interest in the creation and preservation of a network of operators who may assist in emergency communications.").



40. The Plaintiff had a contractual right to due process. Pollock v. Crestview Country Clubassoc., 41 Kan. App. 2d 904, 205 P.3d 1283 (2009) (“The relationship between a social club and its members is one of contract.”).

41. NC PRN has no written policies for expulsion of members from NC PRN and as such NC PRN impliedly represents that it will afford members due process prior to expelling members.

42. The Defendants had an implied duty of good faith and fair dealing toward the Plaintiff. Pollock v. Crestview Country Clubassoc., 41 Kan. App. 2d 904, 205 P.3d 1283 (2009).

43. The Defendants’ actions violated the spirit of amateur radio, which is based on mentoring and fellowship.

44. The Defendants expelled the Plaintiff from NC PRN without conducting a thorough investigation and without exercising due diligence.

45. The expulsion of the Plaintiff from the NC PRN network harmed the Plaintiff personally, professionally and economically.

46. The Plaintiff was entitled to procedural due process prior to expulsion from the NC PRN network. Gaston Board Of Realtors, Inc. v. Harrison, 64 N.C. App. 29, 306 S.E.2d 809 (1983).

47. NC PRN is a quasi-public entity and as such must afford members due process prior to expulsion or censure. Salkin v. California Dental Assoc., 176 Cal. App. 3d 1118; 224 Cal. Rptr. 352 (1986).

48. The expulsion of the Plaintiff from NC PRN has adversely affected the Plaintiff’s reputation as well as the commercial side of his radio operations.

49. NC PRN is the only entity providing a widespread network of repeater stations in North Carolina.

#### FIRST CLAIM FOR RELIEF

##### (INJUNCTIVE RELIEF)

50. The Plaintiff realleges and incorporates as if fully set forth herein his allegations in Paragraphs 1-49 of the Complaint.

51. The Defendants unlawfully banned the Plaintiff from NC PRN without affording the Plaintiff procedural due process.

52. The Plaintiff is entitled to an order from the Court directing the Defendants to reinstate the Plaintiff as a member of NC PRN with full rights to utilize the NC PRN network.

53. The Plaintiff is entitled an order from the Court prohibiting the Defendants from banning the Plaintiff from the NC PRN network in the absence of due process.

#### SECOND CLAIM FOR RELIEF

##### (DAMAGES)

54. The Plaintiff realleges and incorporates as if fully set forth herein his allegations in Paragraphs 1-53 of the Complaint.

55. The Plaintiff has been harmed by the actions of the Defendants as alleged herein.

56. The Plaintiff is entitled to damages from the Defendants.

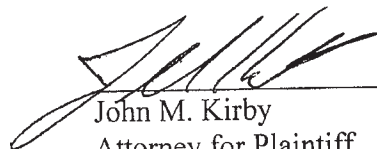
WHEREFORE, Plaintiff prays:

1. That the Court issue an Order directing the Defendants to reinstate the Plaintiff's membership in the NC PRN network;

2. That the Court issue an Order prohibiting the Defendants from banning the Plaintiff from the NC PRN network in the absence of due process afforded to the Plaintiff;

3. That the Plaintiff have and recover damages from the Defendants;
4. That all so triable be tried by a jury;
6. That the costs be taxed to Defendants; and
7. For any further relief as the Court deems just and proper.

This the 4<sup>th</sup> day of June, 2015.



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N.C. State Bar No.: 20014

PRN

## Exhibit II

Search

## Recent Posts

- › Lawsuit: Kenneth L Bryant v NCPN, et al
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- › Owners of Motorola Radios with the latest Firmware – Please Read
- › Interactive Coverage Maps
- › TYT MD-380 and Connect Systems CS700 Channel Manager

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- › Uncategorized

# Lawsuit: Kenneth L Bryant v NCPN, et al

8 May, 2016 in Uncategorized by admin

## Kenneth L Bryant v NCPN, et al

On June 4th, 2015, Ken Bryant (K1DMR) sued the 42 repeater owners that had repeaters on the PRN System at that time. Ken Bryant filed this lawsuit after he was asked not to use the linked System because he was observed contacting radio operators over the air in order to sell radios for his business, North Georgia Communications. Ken Bryant does not own, nor has he ever owned, a repeater on this System. At all times he contacted other radio operators he was using someone else's repeater to access the System. While it does not matter to the case, he also has never donated anything to help the PRN System grow, such as equipment, labor or access to repeater sites. After reading the complaint you will see that, even though Ken Bryant says that when he makes a sale he sells at cost or below cost, he believes he has suffered loss of income and is seeking a minimum of \$10,000 from each defendant. Ken Bryant also believes that the FCC does not have jurisdiction over the Amateur Radio service, and this is why this case is being fought in NC Superior Court and not Federal Court. So far, the NC Superior Court has agreed with this opinion, and has allowed the lawsuit to continue.

Whether Ken Bryant (K1DMR) used the System to sell radios or not is irrelevant at this point. The PRN System is made up of individual, privately owned repeater, hence the name PRN (Private Repeater Network). This means that there is no club that is over all of the repeaters. Anyone may connect their repeater to the network and they retain full ownership over their repeater.

Going forward, this lawsuit will decide whether you retain your personal property rights after you let someone else use that property, even if it is just once. Ken Bryant believes that you must give someone Due Process in a court of law before you can stop them from using your personal property. This lawsuit is an affront to everything we know and believe as Americans, and is in conflict with the rules of the Amateur Radio service (Part 97.205e). It is incredibly important to understand that this court case does not just affect the PRN System. This court case affects every repeater owner in the United States, regardless of if it is analog or digital, club owned or

PRN owned, and will also affect any lending of personal property since it will be used as collateral. The PRN is a radio repeater system, not just a radio/repeater.

As an update, in regards to having asked the ARRL for help, they have offered advice to one of the attorneys working the case.

You will notice that no where on this web site are any requests for donations, as up until this point this network was built out of the generosity of the independent repeater owners. There has never been a cost for anyone to access or use this System. All that was asked was for the radio operators using the System to follow the rules of Amateur Radio. This lawsuit, unfortunately, has to change this.

The repeater owners can not fight this alone, nor should they have to. If we lose this lawsuit, this network will have to shut down. Please consider sending any amount you can afford. All money received will be used to fight this lawsuit. Any extra money (if any) will be returned. If we win and if we can recover attorney's fees, all money will be returned. Any anonymous donations will be spent first, as there will not be any way to return these funds. In order to avoid additional attorney fees to cover the collection of donations, all donations should be sent to Scott Whitaker (KF4DBW), at the address in the picture below. As the web site owner and admin, he is serving as the point of contact for all questions related to this lawsuit.

You may download the entire Complaint by clicking on the bold text 'Kenneth L Bryant v NCPRN, et al' at the top of this post, or by clicking anywhere on this sentence.

**PLEASE, DO NOT** discuss this on the air at any time. Simply direct people to the PRN forum or to this post if they have questions or want updates.

**PLEASE, DO** let every one know via word of mouth to look at this page and have them read the Complaint.

**PLEASE, DO** donate to help fight this ridiculous lawsuit.

Mail Donations To:

**KF4DBW**  
**SCOTT S WHITAKER**  
**387 ZION CHURCH RD**  
**ROCKINGHAM, NC 28379**

This page will be updated as new developments in the case happen. We will also have a post in the General Forum on this web site with the same information that will allow people to ask questions and discuss this lawsuit.

Update – May 9, 2016

A motion to dismiss was filed in February, 2016. This motion to dismiss was denied because the court agreed with Ken's lawyer that the FCC does not have jurisdiction over the Amateur Radio service. Ken is arguing that, because the FCC does not interject itself in CC&R issues at the local level, the State has the jurisdiction now.

We recently sent Ken an offer to settle out of court. He may use the system again if he agreed to not use the system for personal gain, and if he dropped the suit. He



declined to accept this. He wanted instead an apology and a statement that we could  
PRN off without due process, in writing. This is not going to happen, as it  
would require every repeater owner in the United States to offer due process in a court  
before they could tell jammers and miscreants to not use their repeaters.

At this time, we are in the discovery phase. So we will be asking questions of Ken, and  
he will be asking questions of us. We will keep you updated.

We will be setting up a GoFundMe page for anyone who wants to help with the legal  
fees. More information on this will come later this week.

## Post navigation

← New Firmware for Generation 1 Radios

· © 2016 PRN ·



**Exhibit III**

**FILED**

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

WAKE COUNTY

2016 JAN -8 AM 11: 50

SUPERIOR COURT DIVISION

15 CVS 7454

WAKE COUNTY, C.S.C.

_____	)
KENNETH L. BRYANT	)
	)
Plaintiff,	)
	)
-v.-	)
	)
NC PRN, an unincorporated	)
association, SCOTT L. WHITAKER,	)
WADE D. HAMPTON, JR., and	)
JOHN DOES 1-40,	)
	)
Defendants.	)
_____	)

**ORDER DENYING MOTION TO DISMISS**

This cause was heard by the undersigned judge on motion of defendants NC PRN and Wade D. Hampton, Jr., to dismiss the complaint in the above action for failure to state a claim upon which relief can be granted. It appears to the court that the motion should be denied.

IT IS THEREFORE ORDERED that the motion is hereby denied.

This the 8<sup>th</sup> day of January, 2016.

*Kendra D. Hill*  
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Presiding Superior Court Judge