[Cite as *State ex rel. Bell v. Pfeiffer,* 2011-Ohio-2539.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio ex rel. Greg A. Bell,	:	
Relator,	:	
v.	:	No. 10AP-490
Beverly Y. Pfeiffer, Franklin County Court of Common Pleas et al.,	:	(REGULAR CALENDAR)
Respondents.	:	

D E C I S I O N

Rendered on May 26, 2011

Philip Wayne Cramer, for relator.

Ron O'Brien, Prosecuting Attorney, and *Paul A. Thies*, for respondents Beverly Y. Pfeiffer and Edwin L. Skeens.

Onda, LaBuhn, Rankin & Boggs Co. LPA, Timothy S. Rankin and *Craig J. Spadafore*, for respondents County Risk Sharing Authority, Inc., Timothy S. Rankin and Craig J. Spadafore.

Montgomery, Rennie & Jonson, Linda L. Woeber and *Lisa M. Zaring*, for respondents Linda L. Woeber, Lisa M. Zaring and Columbia Casualty Company.

IN PROHIBITION
ON OBJECTION TO THE MAGISTRATE'S DECISION

CONNOR, J.

{¶1} Relator, Greg A. Bell, has filed this original action seeking a writ of prohibition to order respondents, the Honorable Beverly Y. Pfeiffer ("Judge Pfeiffer"),

Edwin L. Skeens ("Magistrate Skeens"), Timothy S. Rankin, Craig J. Spadafore, County Risk Sharing Authority, Inc. ("CORSA"), Linda L. Woeber, Lisa M. Zaring, and Columbia Casualty Company to refrain from taking any action on respondents' February 25, 2010 motion for sanctions, which was filed in the case captioned *Bell v. Nichols*, Franklin C.P. No. 08CVH-04-6427 ("Franklin County action").

{¶2} This court referred the matter to a magistrate pursuant to Civ.R. 53(C) and Loc.R. 12(M) of the Tenth District Court of Appeals. Respondents all filed motions to dismiss relator's writ of prohibition. The magistrate issued a decision, including findings of fact and conclusions of law, which is appended to this decision. In the decision, the magistrate recommended that respondents' motions to dismiss be granted.

{¶3} Relator has filed timely objections to the magistrate's decision. Respondents have filed a memorandum in support of the magistrate's decision. The matter is therefore before this court for a full, independent review.

{¶4} Relator notes that the magistrate incorrectly stated that relator failed to respond to respondents' motions to dismiss. He notes that he did, in fact, file memoranda contra respondents' motions. Accordingly, he argues that the magistrate must review the issues again in light of his responsive memoranda. We disagree. All of relator's memoranda contra were untimely. See App.R. 15; see also Loc.R. 6. Nevertheless, in the interest of justice and in the context of our independent review, we will review the content of these untimely memoranda along with the objections to the magistrate's decision.

{¶5} In filing a writ of prohibition to challenge the authority of various respondents to act in the Franklin County action, relator openly acknowledges the fact

that we must review the Franklin County action. However, he objects to those findings of fact in the appended decision relating to the case of *Madison Cty. Bd. of Commrs. v. Bell*, Madison C.P. No. 2003CV-02-071 ("Madison County action"). Based upon our review, the allegations presented in the Franklin County action specifically reference the Madison County action and relate directly to alleged misconduct that occurred in that litigation. (Complaint, April 30, 2008, in passim.) The primary basis for the Franklin County action was to challenge the Madison County action, which had already been affirmed by the Twelfth Appellate District. See *Madison Cty. Bd. of Commrs. v. Bell*, 12th Dist. No. CA2005-09-036, 2007-Ohio-1373. Further, the Supreme Court of Ohio had already declined to conduct a discretionary review. See *Madison Cty. Bd. of Commrs. v. Bell*, 114 Ohio St.3d 1512, 2007-Ohio-4285. Because relator raised issue with the Madison County action by filing the Franklin County action, relator's objections to the findings of fact that relate thereto have been waived. We accordingly overrule relator's objections in this regard.

{¶6} Relator also objects to finding of fact No. 6, in which the magistrate notes that relator has alleged various conspiracy theories. Again, however, relator's objection is undercut by his complaint, which in fact alleges conspiracy theories. (Complaint, April 30, 2008, ¶16-17, 22, 29, 30-31, 33, 37-38, 43, 46, 48-49, 51, 58, 73, 75, 77, 79-80, 84, 88, 91, 94, 97, 100, 103, 107, 122, 124, 126, 131, 134, 137, 139-40, 142-44, 146, 150.) We specifically reject relator's argument that this finding of fact was irrelevant and prejudicial. Indeed, it is presumed that judges disregard prejudicial statements when making decisions. See *Grange Mut. Cas. Co. v. Tackett*, 11th Dist. No. 2007-P-0037, 2008-Ohio-631, ¶67, citing *State v. Dyer*, 8th Dist. No. 88202, 2007-Ohio-1704, ¶21. Relator has

failed to rebut this presumption. We therefore overrule relator's objection to the magistrate's decision in this regard.

{¶7} Relator objects to finding of fact No. 7 on a basis nowhere mentioned within the finding. Because relator attempts to add to the finding and thereby afford himself with a basis to object, we overrule this baseless objection.

{¶8} Relator objects to findings of fact Nos. 8 through 13 on the ground that they are immaterial and irrelevant to determine whether the writ of prohibition should issue. These findings relate to the posture of the Franklin County action and, as we will further explain, are relevant to determine the instant matter. Based upon the analysis to follow, we overrule relator's objections to findings of fact Nos. 8 through 13.

{¶9} As the appended decision sets forth, a relator seeking a writ of prohibition must establish that: (1) respondent is about to exercise judicial or quasi-judicial powers; (2) the exercise of the power is unauthorized by law; and (3) the denial of the writ will cause injury for which no other adequate remedy in the ordinary course of law exists. *State ex rel. Henry v. McMonagle*, 87 Ohio St.3d 543, 2000-Ohio-477. For different reasons with respect to different respondents, relator's request for a writ of prohibition fails on each of these three elements.

{¶10} Because relator's allegations as to Rankin, Spadafore, CORSA, Woeber, Zaring, and Columbia Casualty Company have no relation to the exercise of judicial or quasi-judicial powers, we refuse to issue the requested writ with regard to these respondents.

{¶11} The magistrate reached this same conclusion, to which relator has filed objections. Relator's objections are premised on the argument that respondents

appointed Rankin, Spadafore, Woeber, and Zaring as counsel to represent the county defendants in the Franklin County action and thereby usurped the roles of the Madison County Board of County Commissioners, the Madison County Prosecuting Attorney, and the Madison County Court of Common Pleas. In support of this position, relator cites *State ex rel. Gains v. Maloney*, 102 Ohio St.3d 254, 2004-Ohio-2658. The gravamen of relator's argument is that the requisite procedure for appointing independent counsel for the county defendants was not followed.

{¶12} In *Gains*, a prosecutor filed an action for a writ of prohibition seeking to prevent a common pleas judge from appointing outside counsel to represent the judge. Id. at ¶2, 8. More specifically, the prosecutor argued that the judge patently and unambiguously lacked jurisdiction to appoint outside counsel to represent him. Id. at ¶10. Based upon the circumstances presented in *Gains*, the Supreme Court of Ohio agreed and issued the writ on that basis. Id. at ¶11.

{¶13} In the instant matter, relator stretches the principles of *Gains* beyond the point of recognition. This case does not present a prosecutor's challenge to the decision of a judge to appoint counsel. Indeed, the Honorable Robert D. Nichols ("Judge Nichols") was not named as a respondent in this matter. Instead, relator seems to suggest that Rankin, Spadafore, Woeber, and Zaring in some way bestowed upon themselves the authority to represent Judge Nichols and the other county defendants in the Franklin County action. In other words, relator argues that respondents appointed themselves. Relator fails to offer any legal support in favor of an issuance of a writ of prohibition in these circumstances. Furthermore, unsupported legal conclusions are not considered admitted when determining whether to grant extraordinary relief and are insufficient to

withstand a motion to dismiss. See *State ex rel. Sherrills v. Cuyahoga Cty. Court of Common Pleas*, 72 Ohio St.3d 461, 462, 1995-Ohio-26, citing *State ex rel. Fain v. Summit Cty. Adult Probation Dept.,* 71 Ohio St.3d 658, 659, 1995-Ohio-149. As a result, we overrule relator's objections to the magistrate's conclusions of law regarding this issue and refuse to issue the requested writ in relation to these respondents.

{¶14} Because relator's allegations as to Judge Pfeiffer and Magistrate Skeens challenge the exercise of power that was authorized by law, we refuse to issue the requested writ with regard to these respondents.

{¶15} Again, the magistrate reached this same conclusion. Relator has objected on the grounds that the Franklin County action was not properly assigned to Judge Pfeiffer, which constitutes the same argument that was previously presented to the magistrate. While we agree with the ultimate conclusion reached by the magistrate, we wish to clarify the basis for our conclusion.

{¶16} In the case of *In re J.J.*, 111 Ohio St.3d 205, 2006-Ohio-5484, the Supreme Court of Ohio explained the important distinctions between the two forms of jurisdiction, which are: subject-matter jurisdiction and jurisdiction over a particular case. Id. at ¶10, citing *Pratts v. Hurley*, 102 Ohio St.3d 81, 2004-Ohio-1980, ¶12.

> Subject-matter jurisdiction "connotes the power to hear and decide a case upon its merits." *Morrison v. Steiner* (1972), 32 Ohio St.2d 86, 87[.] * * *
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> * * *
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> "Jurisdiction over the particular case," as the term implies, involves " ' "the trial court's authority to determine a specific case within that class of cases that is within its subject matter jurisdiction." ' " [*Pratts* at ¶12].

In re J.J. at ¶11-12. The facts of *In re J.J.* involved a magistrate's improper transfer of a case to a visiting judge. Id. at ¶5. While the transfer was improper, this error had no effect on the subject-matter jurisdiction of the court. Id. at ¶16. Instead, because the improper transfer was a mere procedural irregularity, it affected only a judge's jurisdiction over the particular case. Therefore, the court's judgment was merely voidable, rather than being void. Id. at ¶15. Because no timely objection was raised in regard to the judge's jurisdiction over the case, the Supreme Court of Ohio concluded that any argument in this regard had been waived. Id. at ¶16.

{¶17} These principles were echoed in *Barnes v. Univ. Hosps. of Cleveland*, 119 Ohio St.3d 173, 2008-Ohio-3344. In that case, the parties to a case agreed to permit a retired judge to preside over a jury trial. Id. at ¶8. After the jury rendered its verdict, the losing party challenged the retired judge's jurisdiction to preside over the matter. Id. at ¶9, 15. The challenge regarded the fact that the judge had been appointed to his prior judicial position, as opposed to having been elected. Id. Based upon this fact, the losing party argued that the judge had no subject-matter jurisdiction to hear the case. Id. at ¶27. Further, it noted that subject-matter jurisdiction cannot be waived. Id. After considering these arguments, the court held, "subject-matter jurisdiction is conferred on *courts*, rather than on judges." (Emphasis sic.) Id. at ¶29. As a result, the court held that the challenge related to the judge's jurisdiction over the case, rather than the subject-matter jurisdiction of the court. Id. at ¶27. The court again noted that the parties had agreed to allow the retired judge to preside over the case and had thereby waived any challenge to the judge's jurisdiction over the case. Id.

{¶18} As *In re J.J.* and *Barnes* relate herein, it is clear that relator attempts to challenge the procedure through which the Franklin County action was transferred from the Honorable John P. Bessey to Judge Pfeiffer. Without conclusively determining whether an error occurred because it is unnecessary to decide this matter, it is clear that this alleged procedural irregularity related solely to Judge Pfeiffer's jurisdiction over the particular case. See Id. at ¶15-16; see also *Barnes* at ¶27, 29. As a result, the only argument relator could potentially advance was that the judgment was voidable.[1] Id. For this reason, consideration of the procedural posture of the Franklin County action is relevant to determine when, if ever, relator objected to Judge Pfeiffer's jurisdiction over the Franklin County action. This is the reason findings of fact Nos. 8 through 13 are relevant to determining this matter.

{¶19} Furthermore, at this juncture, we wish to correct one portion of the appended decision. The magistrate indicated that relator and his wife appealed the trial judge's decision granting summary judgment to various defendants in the underlying Franklin County action. The magistrate then noted that relator had failed to raise the issue of "subject matter jurisdiction" on appeal. To the extent that the magistrate may have suggested that relator had waived any challenge to the court's subject-matter jurisdiction based upon his failure to raise it, we must correct this portion of appended decision. A challenge to subject-matter jurisdiction cannot be waived. *Cheap Escape Co., Inc. v. Haddox, L.L.C.*, 120 Ohio St.3d 493, 2008-Ohio-6323, fn.1, citing *Pratts* at ¶11, citing *United States v. Cotton* (2002), 535 U.S. 625, 630, 122 S.Ct. 1781. Regardless, however, it was not Judge Pfeiffer's subject-matter jurisdiction that was at

[1] Again, we refuse to determine whether there was error, and whether the judgment was voidable.

issue, as we have just established. Rather, the relevant inquiry regarded Judge Pfeiffer's jurisdiction over the case.

{¶20} Based upon our review, it is clear that relator failed to timely object to Judge Pfeiffer's jurisdiction over the case. As a result, relator waived such a challenge. Therefore, relator has failed to demonstrate that Judge Pfeiffer exercised power unauthorized by law. Our analysis applies equally to Magistrate Skeens. For these reasons, we refuse to issue the requested writ with regard to these respondents.

{¶21} Because relator has an adequate remedy at law with respect to all of the respondents, we refuse to issue the requested writ. The magistrate reached this same conclusion, and relator has objected to the magistrate's decision in this regard.

{¶22} The Supreme Court of Ohio has weighed in on this very issue. See *State ex rel. Sliwinski v. Unruh*, 118 Ohio St.3d 76, 2008-Ohio-1734.

> [I]n the absence of a patent and unambiguous lack of jurisdiction, appellant has an adequate remedy in the ordinary course of law by way of appeal from any adverse final order entered * * * in the underlying case. Insofar as appellant claims that because the judge's orders are not yet appealable, she lacks an adequate remedy at law, it is well settled that "neither prohibition nor mandamus may be employed as a substitute for an appeal from interlocutory orders." *State ex rel. Willacy v. Smith* (1997), 78 Ohio St.3d 47, 51, 1997-Ohio-244; see also *State ex rel. Daggett v. Gessaman* (1973), 34 Ohio St.2d 55, 63 O.O.2d 88, 295 N.E.2d 659, paragraph three of the syllabus.

Id. at ¶22.

{¶23} In his objections, relator fails to explain how or why he will be precluded from filing an appeal after the Franklin County action concludes. Again, because he has an adequate remedy at law in the form of an appeal, we overrule relator's objections to the magistrate's decision and refuse to issue the requested writ on this additional basis.

{¶24} After having examined the magistrate's decision, as well as having undertaken an independent review of the record, the arguments, and the relevant law, we adopt the magistrate's decision as our own with the added clarification and reasoning set forth above. We therefore overrule relator's objections to the magistrate's decision and deny relator's request for a writ of prohibition.

Objections overruled;
writ of prohibition denied.

BROWN and CUNNINGHAM, JJ., concur.

CUNNINGHAM, J., of the First Appellate District, sitting by assignment in the Tenth Appellate District.

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A P P E N D I X

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio ex rel. Greg A. Bell,	:	
Relator,	:	
v.	:	No. 10AP-490
Beverly Y. Pfeiffer, Franklin County Court of Common Pleas et al.,	:	(REGULAR CALENDAR)
Respondents.	:	

M A G I S T R A T E ' S D E C I S I O N

Rendered on August 31, 2010

Philip Wayne Cramer, for relator.

Ron Obrien, Prosecuting Attorney, and *Paul A. Thies*, for respondents Beverly Y. Pfeiffer and Edwin L. Skeens.

Onda, LaBuhn, Rankin & Boggs Co. LPA, Timothy S. Rankin and *Craig J. Spadafore*, for respondents County Risk Sharing Authority, Inc., Timothy S. Rankin and Craig J. Spadafore.

Montgomery, Rennie & Jonson, Linda L. Woeber and *Lisa M. Zaring*, for respondents Linda L. Woeber, Lisa M. Zaring and Columbia Casualty Company.

IN PROHIBITION
ON MOTIONS TO DISMISS

{¶25} Relator, Greg A. Bell, has filed this original action requesting that this court issue a writ of prohibition ordering respondents the Honorable Beverly Y. Pfeiffer, Edwin

L. Skeens, Timothy S. Rankin, Craig J. Spadafore, County Risk Sharing Authority, Inc., Linda L. Woeber, Lisa M. Zaring, and Columbia Casualty Company to refrain from taking any further action on respondents' February 25, 2010 motion for sanctions filed in the underlying Franklin County Court of Common Pleas ("common pleas court") action in *Bell v. Nichols*, Franklin C.P. No. 08CVH04-6427.

Finding of Fact:

{¶26} 1. The underlying conflict between these parties began in 2002 and involves easements on property owned by relator and his wife.

{¶27} 2. "On February 3, 2003, appellee [Madison County Board of Commissioners] filed a complaint against appellants [relator and his wife] which (1) sought to appropriate appellants' property for a construction easement to later be converted to a maintenance easement; (2) sought to appropriate a fee simple interest in appellants' property; (3) alleged disagreement with appellants as to the amount of compensation to be paid to them; and (4) valued the property to be appropriated at $1." *Madison Cty. Bd. of Commrs. v. Bell*, 12th Dist. No. CA2005-09-036, 2007-Ohio-1373, ¶4.

{¶28} 3. "On July 11, 2005, a jury found that appellee was entitled to an easement on appellants' property, but found that appellants were not entitled to any compensation for the easement. By judgment entry filed on August 29, 2005, the trial court granted judgment in favor of appellee." Id. at ¶8.

{¶29} 4. Relator appealed that decision to the Twelfth District Court of Appeals. The appellate court affirmed the trial court's judgment in its entirety. *Madison Cty.*

{¶30} 5. The Supreme Court of Ohio declined to hear a discretionary appeal. *Madison Cty. Bd. of Commrs. v. Bell*, 114 Ohio St.3d 1512, 2007-Ohio-4285.

{¶31} 6. Thereafter, relator and his wife filed an action in the common pleas court against the Honorable Robert D. Nichols, the Madison County Board of Commissioners, Steven G. LaForge (counsel for the commissioners in the Madison County action), Isaac, Brant, Ledman & Teetor, LLP (Mr. LaForge's law firm), County Risk Sharing Authority, Inc. ("CORSA"), Beth Miller (employee of CORSA), Mid-Ohio Pipeline Company, URS Corporation, and the Madison County Sheriff alleging various conspiracy theories regarding the appropriation action.

{¶32} 7. As indicated in relator's complaint, the Honorable John P. Bessey was assigned to the case; however, due to a conflict, Judge Bessey recused himself and the case was assigned to the Honorable Beverly Y. Pfeiffer.

{¶33} 8. In April 2009, the trial court issued a decision granting summary judgment in favor of the named defendants. Relator and his wife appealed the trial court's decision.

{¶34} 9. While the appeal was pending, defendants filed a joint motion for sanctions.

{¶35} 10. By order dated June 3, 2009, the trial court granted relator's motion to hold in abeyance defendants' motion for sanctions while the appeal was pending.

{¶36} 11. On September 15, 2009, this court affirmed the trial court's decision. *Bell v. Nichols*, 10th Dist. No. 09AP-438, 2009-Ohio-4851.

{¶37} 12. On January 27, 2010, the Supreme Court of Ohio declined to hear a discretionary appeal. *Bell v. Nichols*, 124 Ohio St.3d 1445, 2010-Ohio-188.

{¶38} 13. In February 2010, several of the defendants in the common pleas court filed a joint motion seeking to reactivate the case so that the trial court could hear the joint motion for sanctions.

{¶39} 14. Judge Pfeiffer lifted the stay previously granted to relator pending the appeal, granted the motion to reactivate, and the matter was assigned to respondent Magistrate Edwin L. Skeens for hearing.

{¶40} 15. On May 24, 2010, relator filed the instant action seeking, in part, a writ of prohibition against respondents Judge Pfeifer and Magistrate Skeens to prohibit them from issuing any further orders in the underlying common pleas court action for lack of jurisdiction.

{¶41} 16. Relator also asserts numerous claims against respondents Rankin, Spadafore, and CORSA involving the representation of the Madison County defendants in the Franklin County case. Relator alleges that Rankin and Spadafore are not lawfully empowered to represent Madison County parties and that CORSA is illegally compensating counsel for their services.

{¶42} 17. Relator's action against respondents Woeber, Zaring, and Columbia Casualty Company makes similar assertions. Relator claims that Woeber and Zaring were not properly empowered to defend Judge Nichols and that Columbus Casualty Company has unlawfully paid for their services.

{¶43} 18. Relator seeks the following:

> WHEREFORE, Relator prays for the issuance of the Writ of Prohibition against Respondents Pfeiffer and Skeens, prohibiting same from issuing any further orders in the *Bell v. Nichols* case, for want of jurisdiction. Further, Relator prays for the issuance of the Writ of Prohibition against Respondents Rankin, Spadafore, Woeber and Zaring,

> prohibiting same from filing any further pleadings on behalf of MCBC or any Madison County, Ohio employee[s] in the *Bell v. Nichols* case, until such time as there is compliance with all legal requirements for such representation. Further, Relator prays for the issuance of the Writ of Prohibition against Respondent CORSA, prohibiting same from usurping the authority of MCBC in appointing legal counsel to represent MCBC and Madison County, Ohio employees in the *Bell v. Nichols* case, and from paying public moneys to defend civil rights claims against Madison County, Ohio employees in said case. Further, Relator prays for the issuance of the Writ of Prohibition against Respondent COLUMBIA, prohibiting same from usurping the authority of MCBC in appointing legal counsel to represent Respondent Nichols in the *Bell v. Nichols* case.

(Complaint, at ¶57.)

{¶44} 19. Respondents have all filed motions to dismiss.

{¶45} 20. Relator has failed to respond to any of respondents' motions to dismiss.

{¶46} 21. The matter is currently before this magistrate on respondents' motions to dismiss.

Conclusions of Law:

{¶47} A motion to dismiss for failure to state a claim upon which relief can be granted is procedural and tests the sufficiency of the complaint. *State ex rel. Hanson v. Guernsey Cty. Bd. of Commrs.*, 65 Ohio St.3d 545, 1992-Ohio-73. In reviewing the complaint, the court must take all the material allegations as admitted and construe all reasonable inferences in favor of the nonmoving party. Id.

{¶48} In order for a court to dismiss a complaint for failure to state a claim upon which relief can be granted, it must appear beyond doubt from the complaint that relator can prove no set of facts entitling him to recovery. *O'Brien v. University Community Tenants Union* (1975), 42 Ohio St.2d 242. As such, a complaint for writ of mandamus is

not subject to dismissal under Civ.R. 12(B)(6) if the complaint alleges the existence of a legal duty by the respondent and the lack of an adequate remedy at law for relator with sufficient particularity to put the respondent on notice of the substance of the claim being asserted against it, and it appears that relator might prove some set of facts entitling him to relief. *State ex rel. Boggs v. Springfield Local School Dist. Bd. of Edn.*, 72 Ohio St.3d 94, 1995-Ohio-202. For the following reasons, respondents' motions to dismiss should be granted and relator's writ of prohibition should be dismissed.

{¶49} This court can and should take judicial notice of the underlying actions involving relator, his wife, and the various respondents. Courts may take judicial notice of appropriate matters in determining a Civ.R. 12(B)(6) motion without converting that motion to one for summary judgment. See *State ex rel. Findlay Publishing Co. v. Schroeder*, 76 Ohio St.3d 580, 1996-Ohio-360; *State ex rel. Neff v. Corrigan*, 75 Ohio St.3d 12, 1996-Ohio-231; *State ex rel. Everhart v. McIntosh*, 115 Ohio St.3d 195, 2007-Ohio-4798.

{¶50} A writ of prohibition is an extraordinary judicial writ, the purpose of which is to restrain inferior courts and tribunals from exceeding their jurisdiction. *State ex rel. Tubbs Jones v. Suster*, 84 Ohio St.3d 70, 1998-Ohio-275. A writ of prohibition is customarily granted with caution and restraint, and is issued only in cases of necessity arising from the inadequacy of other remedies. Id. In order to be entitled to a writ of prohibition, relator must establish that: (1) respondent is about to exercise judicial or quasi-judicial powers; (2) the exercise of the power is unauthorized by law; and (3) the denial of the writ will cause injury for which no other adequate remedy in the ordinary

course of law exists. *State ex rel. Henry v. McMonagle*, 87 Ohio St.3d 543, 2000-Ohio-477.

{¶51} In asserting his case against Judge Pfeiffer and Magistrate Skeens, relator argues that Judge Pfeiffer was not properly assigned to his case and, as such, neither she nor Magistrate Skeens has jurisdiction to proceed. Relator's arguments involve the timing of and manner of Judge Bessey's recusal and the appointment of Judge Pfeiffer to preside over his case. This magistrate finds relator's argument unpersuasive.

{¶52} Courts of common pleas are courts of general jurisdiction. *Franklin Cty. Law Enforcement Assn. v. Fraternal Order of Police, Capital City Lodge No. 9* (1991), 59 Ohio St.3d 167. The Ohio Legislature has conferred original jurisdiction upon the courts of common pleas in all civil cases, whether the actions are at law or in equity, in which the amount at dispute exceeds the exclusive jurisdiction of lower courts, and subject to the grants of jurisdiction to other courts such as the Ohio Court of Claims. See R.C. 2305.01. Jurisdiction over an action filed in the court of common pleas rests with the court and not with any particular judge or magistrate. Section I, Article IV, Ohio Constitution.

{¶53} Here, there is no dispute that the common pleas court: (1) had subject-matter jurisdiction over the underlying case; (2) is a court of general jurisdiction; (3) the action filed by relator and his wife was civil in nature; and (4) the underlying action was not subject to a specific grant of jurisdiction to another court. In the absence of a patent and unambiguous lack of jurisdiction, a court having general subject-matter jurisdiction over a matter can determine its own jurisdiction, and a party challenging that jurisdiction has an adequate remedy by way of appeal. *State ex rel. Shimko v. McMonagle*, 92 Ohio St.3d 426, 2001-Ohio-301. Judge Pfeiffer and Magistrate Skeens are officers of the court

and are authorized to exercise the authority vested in the court. Where a court has subject-matter jurisdiction, a judge or magistrate authorized to exercise the court's authority may lawfully proceed. Id.

{¶54} A patent and unambiguous lack of jurisdiction does not exist in the underlying action. Here, the common pleas court granted summary judgment in favor of the underlying defendants. Relator and his wife appealed that decision but, upon review of that action, they did not raise the issue of subject-matter jurisdiction on appeal. Because relator and his wife had an adequate remedy by way of appeal and failed to exercise it, the granting of the extraordinary remedy of a writ of prohibition is not warranted. As such, the magistrate finds that the motion to dismiss filed by respondents Judge Pfeiffer and Magistrate Skeens should be granted.

{¶55} With regard to the remaining respondents, the magistrate finds that their motions to dismiss should be granted as well. As noted previously, in order for a writ of prohibition to issue, relator must prove that the remaining respondents are about to exercise judicial or quasi-judicial power, the exercise of that power is unauthorized by law, and the denial of the writ will cause injury for which no other adequate remedy in the ordinary course of law exists.

{¶56} None of the remaining respondents are about to exercise judicial or quasi-judicial authority. The remaining respondents do not have the ability to exercise judicial power. It is equally obvious that they cannot exercise quasi-judicial authority which is the power to hear and determine controversies between the public and individuals requiring a hearing resembling a judicial trial. *State ex rel. Upper Arlington v. Franklin Cty. Bd. of Elections*, 119 Ohio St.3d 478, 2008-Ohio-5093. Because none of the remaining

respondents are about to exercise judicial or quasi-judicial authority, their motions to dismiss should likewise be granted.

{¶57} Based on the foregoing, it is this magistrate's decision that relator can prove no set of facts entitling him to recovery and, as above noted, respondents' motions to dismiss should be granted and relator's complaint should be dismissed.

/s/ *Stephanie Bisca Brooks*
STEPHANIE BISCA BROOKS
MAGISTRATE

NOTICE TO THE PARTIES

Civ.R. 53(D)(3)(a)(iii) provides that a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).