

[Cite as *State ex rel. Northeastern Local Bd. of Edn. v. Rastatter*, 2016-Ohio-7103.]

IN THE COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT  
CLARK COUNTY

STATE OF OHIO EX REL. NORTHEASTERN LOCAL BOARD  
OF EDUCATION

*Relator*

v.

DOUGLAS M. RASTATTER,  
COURT OF COMMON PLEAS,  
JUDGE, CLARK COUNTY OHIO

*Respondent*

Appellate Case No. 16CA0004

[Original Action in Mandamus  
and Prohibition]

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**DECISION AND FINAL JUDGMENT ENTRY**

September 8, 2016

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PER CURIAM:

{¶ 1} Northeastern Local School District Board of Education (“Northeastern”) filed a petition for peremptory or alternative writs of mandamus and prohibition on February 16, 2016. Northeastern asks this court to prohibit the Honorable Douglas M. Rastatter from exercising further jurisdiction in Clark County Common Pleas Court Case No. 15-CV-0360 (“the Trial Court Case”). Northeastern also asks us to compel Judge Rastatter to vacate a February 12, 2016 contempt judgment against it in the Trial Court Case, and to stay that

case pending its appeal to this court in Clark Appellate Case No. 16CA0002 (“the Appeal”).

{¶ 2} Northeastern’s petition is based on its argument that it is entitled to a stay of enforcement of a decision in the Trial Court Case, without posting bond, while the Appeal is pending. Northeastern argues that as a political subdivision, it is entitled to a stay pursuant to Civ.R. 62(B) and (C), and that Judge Rastatter had no discretion to deny a stay, and no jurisdiction to conduct contempt proceedings or enforce the decision.

{¶ 3} Judge Rastatter challenges Northeastern’s right to a stay. He argues that Northeastern failed to file a motion asserting its right to a stay without bond until after the contempt proceedings concluded and after Northeastern filed this original action. Judge Rastatter also suggests that the original action is moot, as this court granted a stay in the Appeal on February 22, 2016.

{¶ 4} We grant the requested relief in part and deny it in part.

#### Procedural History

{¶ 5} The full histories of the Trial Court Case and the Appeal are not of record in this case. The following facts are drawn from Northeastern’s petition and Judge Rastatter’s answer, and the documents attached thereto, as well as from the pleadings filed in response to this court’s May 26, 2016 order for briefing. In addition, we may take judicial notice of events that cause a matter to become moot. *State ex rel. Foster v. Berea Mun. Court*, 8th Dist. Cuyahoga No. 85495, 2005-Ohio-1200, ¶ 3. We may also take judicial notice under Evid.R. 201 of other adjudicative facts. *See State ex rel. Neff v. Corrigan*, 75 Ohio St.3d 12, 15, 661 N.E.2d 170 (1996). “In extraordinary-writ cases, courts are not limited to the facts at the time a proceeding is commenced, but should

consider facts at the time it determines whether to grant the writ.” *State ex rel. Everhart v. McIntosh*, 115 Ohio St.3d 195, 2007-Ohio-4798, 874 N.E.2d 516, ¶ 10.

{¶ 6} The Trial Court Case, Clark County Common Pleas Court Case No. 15-CV-0360, is an administrative appeal arising from Northeastern’s decision to terminate Regina Jenkins’ employment contract. Jenkins is not a party to this action and the merits of her claims are not before us. Judge Rastatter ruled in Jenkins’ favor on October 26, 2015, ordering Northeastern to restore her to employment with backpay.

{¶ 7} On November 23, 2015, Northeastern filed a motion to stay the decision in the trial court, as well as a motion for a new trial pursuant to Civ.R. 60. Neither party contends that this first motion to stay raised the issue of whether Northeastern was entitled to stay without bond as a political subdivision. On December 17, 2015, Northeastern filed a motion to vacate or, in the alternative, for relief from judgment.

{¶ 8} On January 6, 2016, Judge Rastatter denied all the post-trial motions, including the first motion to stay. On January 19, 2016, Jenkins asked Judge Rastatter to order Northeastern to show cause why it should not be held in contempt for failing to reinstate her employment. Judge Rastatter scheduled the show cause hearing for February 12, 2016.

{¶ 9} Several days before the hearing, on February 4, 2016, Northeastern instituted the Appeal, Clark Appellate Case No. 16CA0002. On February 10, 2016, also before the contempt hearing, Northeastern filed its second motion to stay. The second motion was captioned in the Trial Court Case and included a proposed Order for Judge Rastatter’s signature. It was presented to the clerks of the Court of Common Pleas and Court of Appeals, who instructed Northeastern’s representative that it was to be filed in the Appeal. The caption of the second motion was then amended to reflect its filing in the

Court of Appeals. It was ultimately time-stamped by the clerk of the Court of Appeals. The motion to stay explicitly raised Northeastern's argument that it is a political subdivision entitled to stay without bond.

**{¶ 10}** On February 12, 2016, Judge Rastatter conducted the contempt hearing. At the hearing, Northeastern argued that it was a political subdivision not subject to the requirement of a bond otherwise required to stay the court's judgment. Judge Rastatter then found Northeastern in contempt for failing to comply with the court's previous order. Judge Rastatter imposed a daily fine of \$2,500 for each day after February 16, 2016 that Jenkins was not reinstated. An Entry was filed to that effect the same day.

**{¶ 11}** On February 16, 2016, Northeastern filed its petition for writs of mandamus and prohibition.

**{¶ 12}** On February 18, 2016, Northeastern filed a third motion to stay, this time in the Trial Court Case. This motion again argued that Northeastern is a political subdivision and entitled to a stay without bond, having perfected its appeal. The motion also explained that the second motion had been filed in the Appeal, rather than the Trial Court Case, on the instruction of the clerks of both courts. An affidavit attesting to the facts surrounding the filing was attached to the motion.

**{¶ 13}** On February 22, 2016, in the Appeal, this court stayed enforcement of the trial court's October 26, 2015 order determining that Jenkins should be reinstated.

**{¶ 14}** On March 3, 2016, Judge Rastatter filed his answer in the original action.

**{¶ 15}** On May 26, 2016, upon an initial review of this case, this court said:

It appears that, upon Northeastern's appeal and request for a stay under Civ.R. 62(B) and (C), Judge Rastatter was without jurisdiction to proceed on

the contempt motion. However, it is not entirely clear when Northeastern first requested a stay pursuant to Civ.R. 62(B) and (C).

Accordingly, IT IS HEREBY ORDERED that both parties shall file a response to this Order, in writing, addressing the following issues:

1. When Northeastern first requested a stay pursuant to Civ.R. 62(B) and (C); and
2. Whether [*State ex rel. State Fire Marshal v. Curl*, 87 Ohio St.3d 568, 722 N.E.2d 7 (2000)], requires this court to compel Respondent to vacate the February 12, 2016 contempt Entry.

A transcript of the contempt hearing was filed in this case on June 28, 2016, and the parties filed responses to this court's order on July 8, 2016.

{¶ 16} This court has since dismissed the Appeal for lack of a final appealable order.

{¶ 17} The matter is now before the court for resolution of the merits of Northeastern's request for writs of mandamus and prohibition.

#### Right to a Stay Pending Appeal under Civ.R. 62

{¶ 18} Civ.R. 62 governs stays in the trial court. The two provisions relevant to this case are:

#### (B) Stay upon appeal

When an appeal is taken the appellant may obtain a stay of execution of a judgment or any proceedings to enforce a judgment by giving an adequate supersedeas bond. The bond may be given at or after the time of filing the notice of appeal. The stay is effective when the supersedeas bond is approved by the court.

## (C) Stay in favor of the government

When an appeal is taken by this state or political subdivision, or administrative agency of either, or by any officer thereof acting in his representative capacity and the operation or enforcement of the judgment is stayed, no bond, obligation or other security shall be required from the appellant.

Civ.R. 62(B) and (C). The parties appear to agree that Northeastern is a political subdivision for the purpose of division (C). See *Elston v. Howland Local Schools*, 113 Ohio St.3d 314, 2007-Ohio-2070, 865 N.E.2d 845, ¶ 10 (“it is undisputed that Howland Local Schools is a political subdivision as defined in R.C. 2744.01(F)”).

Standards for Mandamus and Prohibition

{¶ 19} To be entitled to a writ of mandamus to compel a common pleas court to stay execution of a judgment while an appeal is pending, a relator “must establish a clear legal right to the stay without bond, a corresponding clear legal duty on the part of the common pleas court and judges to issue the stay without bond, and the lack of an adequate remedy in the ordinary course of the law.” *State ex rel. Electronic Classroom of Tomorrow v. Cuyahoga Cty. Court of Common Pleas*, 129 Ohio St.3d 30, 2011-Ohio-626, 950 N.E.2d 149, ¶ 19, citing *State ex rel. Husted v. Brunner*, 123 Ohio St.3d 288, 2009-Ohio-5327, 915 N.E.2d 1215, ¶ 8.

{¶ 20} A writ of prohibition is appropriate where relator establishes that respondent is about to exercise or has exercised judicial power that is unauthorized by law, and that “denying the writ would result in injury for which no other adequate remedy exists in the ordinary course of law.” *State ex rel. R.W. v. Williams*, 146 Ohio St.3d 91, 2016-Ohio-562, 52 N.E.3d 1176, ¶ 13.

{¶ 21} Both writs include the lack of an adequate remedy at law as an element. However, “[e]ven if an adequate remedy exists, a writ may issue if the lack of jurisdiction is ‘patent and unambiguous.’ ” *Id.* at ¶ 13; see also *Electronic Classroom* at ¶ 29 (“the availability of alternative remedies such as a discretionary appeal \* \* \* is immaterial” to the mandamus claim).

### Analysis

#### *Mandamus*

{¶ 22} Northeastern seeks two kinds of relief in mandamus: 1) an order compelling Judge Rastatter to stay the underlying judgment pending appeal; and 2) an order compelling Judge Rastatter to vacate the February 12, 2016 contempt judgment. We conclude that Northeastern is entitled to the latter relief.

{¶ 23} This court stayed enforcement of the trial court’s October 26, 2015 judgment entry in the Appeal, potentially mooting Northeastern’s request here. However, the stay dissolved when this court dismissed the Appeal for lack of jurisdiction. At this time, there is no pending appeal, and a stay *pending* the Appeal is no longer appropriate or required. See *Huntington Natl. Bank v. Payson*, 2d Dist. Montgomery No. 26396, 2015-Ohio-1976, ¶ 28 (stay pending appeal would no longer apply after decision resolving the appeal). We therefore deny Northeastern’s request for a writ of mandamus compelling Judge Rastatter to stay the October 26, 2015 judgment pending appeal.

{¶ 24} Northeastern also asks this court to compel Judge Rastatter to vacate his February 12, 2016 judgment finding Northeastern in contempt. Northeastern argues it was entitled to a stay as a matter of right without posting a supersedeas bond pursuant to Civ.R. 62(B) and (C), and that Judge Rastatter lacked jurisdiction to conduct contempt proceedings.

{¶ 25} The Supreme Court of Ohio has addressed mandamus and prohibition relief in this context. In *State ex rel. State Fire Marshal v. Curl*, 87 Ohio St.3d 568, 722 N.E.2d 7 (2000), the court found that a political subdivision was plainly entitled to a stay pending appeal, and that the trial court judge was patently and unambiguously without jurisdiction to deny it:

Once an appeal is taken, the trial court is divested of jurisdiction except “over issues not inconsistent with that of the appellate court to review, affirm, modify or reverse the appealed judgment, such as the collateral issues like contempt \* \* \*.” *State ex rel. Special Prosecutors v. Judges, Court of Common Pleas* (1978), 55 Ohio St.2d 94, 97, 9 O.O.3d 88, 90, 378 N.E.2d 162, 165; *Haller v. Borrer* (1995), 107 Ohio App.3d 432, 436, 669 N.E.2d 17, 19.

A trial court, however, lacks jurisdiction to execute a judgment or contempt proceedings regarding the judgment if there is a stay of the judgment pending appeal. *In re Kessler* (1993), 90 Ohio App.3d 231, 236, 628 N.E.2d 153, 156; *see, also, Oatey v. Oatey* (1992), 83 Ohio App.3d 251, 257, 614 N.E.2d 1054, 1058, where the court of appeals held that “[t]he mere filing of a notice of appeal from the order \* \* \* does not divest the \* \* \* court of jurisdiction to enforce an interlocutory or final order pending appeal unless the party is granted a stay of execution of the order.” (Emphasis added.) *See Dandino v. Finkbeiner* (Oct. 27, 1995), Lucas App. No. 95-030, unreported, 1995 WL 628222.

As the State Fire Marshal correctly contends, he was entitled to a stay of the judgment as a matter of right pursuant to Civ.R. 62(B) and (C), which provide:

“(B) Stay upon appeal. When an appeal is taken the appellant may obtain a stay of execution of a judgment or any proceedings to enforce a judgment by giving an adequate supersedeas bond. The bond may be given at or after the time of filing the notice of appeal. The stay is effective when the supersedeas bond is approved by the court.

“(C) Stay in favor of government. When an appeal is taken by this state or political subdivision, or administrative agency of either, or by any officer thereof acting in his representative capacity and the operation or enforcement of the judgment is stayed, no bond, obligation or other security shall be required from the appellant.”

After construing Civ.R. 62(B) and (C) in pari materia, *cf. State ex rel. Watkins v. Eighth Dist. Court of Appeals* (1998), 82 Ohio St.3d 532, 535, 696 N.E.2d 1079, 1083, the State Fire Marshal was manifestly entitled to a stay of Judge Curl’s judgment pending his appeal.

*State Fire Marshal* at 570-571.

{¶ 26} The Supreme Court relied in part on a previous opinion in which it had granted prohibition relief on similar grounds. *Id.* at 570-571, citing *State ex rel. Ocasek v. Riley*, 54 Ohio St.2d 488, 377 N.E.2d 792 (1978). The court reasoned in *Ocasek* that the “lone requirement of Civ.R. 62(B) is the giving of an adequate supersedeas bond. Civ.R.

62(C) makes this requirement unnecessary in this case, and respondent has no discretion to deny the stay.” *Ocasek* at 490.

{¶ 27} Finding that the State Fire Marshall was entitled to a stay, the court concluded that the judge “patently and unambiguously lacked jurisdiction either to enforce the judgment or to conduct contempt proceedings.” *State Fire Marshall* at 573. Further, because the stay should have been granted, the State Fire Marshall was entitled to the requested writ of mandamus and prohibition. *Id.* “Although a writ of mandamus will generally not issue to control judicial discretion even if that discretion is abused, the writ will lie in certain circumstances where a lower court has *no discretion* on a matter.” (Emphasis in original.) *Id.* at 573, citing *State ex rel. Heck v. Kessler*, 72 Ohio St.3d 98, 102, 647 N.E.2d 792 (1995). Writs of mandamus (to require the judge to issue a stay) and prohibition (to prevent the judge from conducting contempt proceedings or enforcing the judgment pending appeal) were issued. *Id.* at 573-574.

{¶ 28} We apply the same principles here. We note that there is no dispute that Northeastern is a political subdivision as described in Civ.R. 62(C). There is also no dispute that Northeastern filed a timely appeal from the trial court’s order. “[U]pon an appeal and request for stay by a political subdivision,” a trial court must grant a stay. *State ex rel. Electronic Classroom of Tomorrow v. Cuyahoga Cty. Court of Common Pleas*, 129 Ohio St.3d 30, 2011-Ohio-626, 950 N.E.2d 149, ¶ 29. The factual issue before us is whether Northeastern requested a stay, triggering Judge Rastatter’s duty to stay and depriving him of jurisdiction to conduct the contempt proceedings. If it did, Northeastern is entitled to mandamus relief, because Judge Rastatter patently and unambiguously lacked jurisdiction to conduct contempt proceedings or enter the contempt entry on February 12, 2016.

{¶ 29} The parties' arguments center on the second motion for stay filed on February 10, 2016, and the contempt proceedings held on February 12, 2016. Judge Rastatter focuses narrowly on the filed, written motions for stay, while Northeastern argues it made written and oral requests for a stay.

{¶ 30} Judge Rastatter argues that the February 10 motion – the only motion to stay filed at that time, on these grounds – was filed in the court of appeals, not the common pleas court. While it is true that the motion was time-stamped by the Court of Appeals' clerk, our inquiry does not end there. "A document is 'filed' when it is deposited properly for filing with the clerk of courts." *Zanesville v. Rouse*, 126 Ohio St.3d 1, 2010-Ohio-2218, 929 N.E.2d 1044, ¶ 7, *judgment vacated in part on reconsideration on other grounds*, 126 Ohio St.3d 1227, 2010-Ohio-3754, 933 N.E.2d 260, ¶ 7. The time stamp, or certification, on a document is not determinative of whether a document has been filed:

This court has long recognized the difference between filing and certification of filing by the clerk. In *King v. Penn* (1885), 43 Ohio St. 57, 1 N.E. 84, we held that "[w]hen a paper is in good faith delivered to the proper officer to be filed, and by him received to be kept in its proper place in his office, it is 'filed.' The indorsement upon it by such officer of the fact and date of filing is but evidence of such filing." *Id.* at 61, 1 N.E. 84. Furthermore, when a document is filed, the clerk's failure to file-stamp it does not create a jurisdictional defect. *State v. Otte* (2002), 94 Ohio St.3d 167, 169, 761 N.E.2d 34, citing *State ex rel. Larkins v. Baker* (1995), 73 Ohio St.3d 658, 653 N.E.2d 701. That the clerk's duties were not carried out properly in this case does not mean that the complaint was not, in fact, filed.

*Rouse* at ¶ 8. “In short, the time or date stamp does not cause the filing; the filing causes the certification.” *Id.* at ¶ 7.

{¶ 31} Here, the evidence before us shows that Northeastern presented the February 10 motion to the clerks of both the Court of Common Pleas and the Court of Appeals. The motion was captioned in the Court of Common Pleas, bore the Trial Court Case number above the Appeal Case number, and was addressed to the trial court, relying on Civ.R. 62 rather than App.R. 7, and asking that court to stay “*its* Final Order & Judgment Entry.” (Emphasis added). The motion attached a proposed Order granting the motion with a signature line for Judge Rastatter. It was clearly intended for the Common Pleas Court. It should have been docketed and time stamped by the clerk of the Common Pleas Court; a clerk has a legal duty to accept and file motions tendered to him or her. *State ex rel. Montgomery Cty. Pub. Def. v. Siroki*, 108 Ohio St.3d 334, 2006-Ohio-1065, 843 N.E.2d 778, ¶ 10, quoting *Rhoades v. Harris*, 135 Ohio App.3d 555, 557, 735 N.E.2d 6 (1999); *but see* R.C. 2701.20 (containing exceptions not relevant here for documents reasonably believed to be materially false or fraudulent, or where a document is not required or authorized). Again, the fact that “the clerk’s duties were not carried out properly in this case does not mean that the [motion] was not, in fact, filed.” *Rouse* at ¶ 8.

{¶ 32} Instead of time-stamping the motion that had been properly presented to the Common Pleas Court clerk, the clerks instructed Northeastern’s representative that the motion was to be filed in the Appeal. The caption was then amended on that instruction to reflect the “Court of Appeals” rather than “Court of Common Pleas” and the motion was time-stamped by the clerk of the Court of Appeals.

{¶ 33} Northeastern’s written request for a stay was echoed by its oral objection to the February 12 contempt proceedings. See Civ.R. 7(B)(1) (oral motions are proper at a

hearing). The transcript shows that Northeastern addressed the issue to Judge Rastatter at the beginning of the show cause hearing:

MS. BURLESON [Northeastern's counsel]: Your Honor, I believe that there is a procedural and jurisdictional issue with respect to this matter today.

The Ohio Supreme Court has opined in the case *State ex rel Electronic Classroom of Tomorrow versus Cuyahoga County Court of Common Pleas*, that once a case is -- an appeal is perfected, the trial court is divested of jurisdictional matters [that are] inconsistent with the reviewing court's review of the judgment order entry. In this case the defendant has properly filed and perfected a notice of appeal and has also contemporaneously therewith<sup>1</sup> filed a motion to stay said judgment.

Given that the defendant is a political subdivision, it is not subject to the supersedeas fine [sic] otherwise required for a judgment to stay the lower court's judgment and as such, having an appeal been perfected, I believe that there is a procedural and jurisdiction issue with respect to this hearing today.

Tr., 4.

{¶ 34} Judge Rastatter questioned whether this court had stayed his order, asserting, contrary to the caselaw outlined above, that unless the court of appeals had stayed or overruled the order, it remained in effect:

THE COURT: Okay, so my order has not been stayed.

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<sup>1</sup> The notice of appeal was filed on February 4, 2016. Motions to stay were filed November 23, 2015, February 10, 2016, and February 18, 2016.

MS. BURLESON: Correct. But your order has been appealed. The appeal has been perfected and with that - -

THE COURT: Okay, but when a case is appealed, my judgment has neither been - - My Judgment has not been reversed, right?

MS. BURLESON: Correct, however - -

THE COURT: So it stands as ordered. So why hasn't it [complying with the order to reinstate Jenkins] been done?

MS. BURLESON: Because it is on appeal. Your Honor, the - -

THE COURT: Okay. I find that the defendants are in contempt of this Court's order. The way it works is: You follow the order. If you don't like the order, you appeal it; but that order stays in effect until a higher court stays the order or reverses my judgment. Neither of those things have been done.

Tr., 5.

{¶ 35} Northeastern again attempted to make its argument:

MS. BURLESON: Since that time [January 12], we have perfected our appeal and filed - -

THE COURT: Okay. Mr. Skogstrom [Jenkins' counsel], what are you interested in as far as a contempt finding from the Court? \* \* \* Because apparently if I remind defendants of my order, apparently they are not going to carry it out, so what do you have in mind as far as a remedy?

Tr., 6. Judge Rastatter imposed a \$2,500 per day fine thereafter. In his February 12, 2016 Entry memorializing his decision, he unequivocally stated that “[u]nless or until the Second District takes such action [to stay or reverse], this Court’s October [26], 2015 Order remains in full force and effect.”

{¶ 36} Northeastern properly cited *Electronic Classroom*, which indeed holds that “Civ.R. 62 patently and unambiguously imposes on the court of common pleas and its judges the duty to issue a stay without a supersedeas bond upon an appeal and request for stay by a political subdivision.” *State ex rel. Electronic Classroom of Tomorrow v. Cuyahoga Cty. Court of Common Pleas*, 129 Ohio St.3d 30, 2011-Ohio-626, 950 N.E.2d 149, ¶ 29. Northeastern articulated the jurisdictional problem with the contempt proceedings, claimed to be a political subdivision exempt from the requirement of a supersedeas bond, and referenced its previous motions to stay. Although Northeastern could not complete its argument at the hearing, it is clear that Northeastern was invoking its right to a stay without bond and was challenging the trial court’s jurisdiction to conduct contempt proceedings to enforce its order. Under the unique combination of circumstances presented here, including the properly-presented but misdirected written motion for stay, the interrupted oral motion to stay, and the jurisdictional objection to contempt proceedings that included correct legal citation, we conclude that Northeastern sought to stop, or stay, enforcement proceedings.

{¶ 37} Having sought a stay, Northeastern was entitled to a stay without bond. Judge Rastatter had no discretion to deny a stay and no jurisdiction to enforce his previous order or to proceed on the contempt hearing. “If a lower court patently and unambiguously lacks jurisdiction to proceed in a cause, prohibition and mandamus will issue to prevent any future unauthorized exercise of jurisdiction and *to correct the results of prior jurisdictionally unauthorized actions.*” (Emphasis added.) *State ex rel. State Fire Marshal v. Curl*, 87 Ohio St.3d 568, 569-579, 722 N.E.2d 73 (2000), citing *State ex rel. Dannaher v. Crawford*, 78 Ohio St.3d 391, 393, 678 N.E.2d 549 (1997). We thus grant the requested writ of mandamus to correct prior jurisdictionally unauthorized contempt

proceedings. Northeastern is entitled to a writ of mandamus ordering Judge Rastatter to vacate the February 12, 2016 contempt Entry.

*Prohibition*

{¶ 38} Northeastern also seeks relief in prohibition, asking this court to prohibit Judge Rastatter from exercising any further jurisdiction in the Trial Court Case. This request is also premised on the existence of a pending appeal. As discussed above, there is no longer a pending appeal, and no requirement that Judge Rastatter continue to stay the matter pursuant to the authorities cited above. After dismissal of the appeal for lack of a final appealable order, Judge Rastatter is free to conclude the case and issue a final judgment. If that final order is adverse to Northeastern and is timely appealed, Northeastern can raise its right to a stay to Judge Rastatter at that time.

Conclusion

{¶ 39} A writ of mandamus is GRANTED. Judge Rastatter is hereby ORDERED to vacate the February 12, 2016 contempt Entry.

{¶ 40} Northeastern is not entitled to a writ of mandamus to compel Judge Rastatter to issue a stay in Clark County Common Pleas Court Case No. 15-CV-0360, and is not entitled to a writ of prohibition to prohibit Judge Rastatter from exercising jurisdiction in that case. Said writs are DENIED.

SO ORDERED.

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MICHAEL T. HALL, Administrative Judge

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MIKE FAIN, Judge

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JEFFREY E. FROELICH, Judge

To The Clerk: Within three (3) days of entering this judgment on the journal, you are directed to serve on all parties not in default for failure to appear notice of the judgment and the date of its entry upon the journal, pursuant to Civ.R. 58(B).

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MICHAEL T. HALL, Administrative Judge

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