ORIGINAL

IN THE SUPREME COURT OF OHIO

VALENTINE SCHUROWLIEW, Relator, vs. JUDGE LANCE MASON, ET AL., Respondents.	)))))))))	CASE NO. 2010-0712 Original Action in Prohibition Arising From Cuyahoga County Common Pleas Court Case No. 09 CV 684581 and Cuyahoga County Probate Court Case No. 2009 ADV 144867

RESPONDENTS' BRIEF IN OPPOSITION TO RELATOR'S MOTION TO STAY PROCEEDINGS IN PROBATE AND COMMON PLEAS COURTS

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RECEIVED
MAY 07 2010
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
MAY 07 2010
CLERK OF COURT
SUPREME COURT OF OHIO

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VALENTINE SCHUROWLIEW,	)	CASE NO. 2010-0712
	)	
Relator,	)	Original Action in Prohibition Arising
	)	From Cuyahoga County Common Pleas
vs.	)	Court Case No. 09 CV 684581 and
	)	Cuyahoga County Probate Court Case
JUDGE LANCE MASON, ET AL.,	)	No. 2009 ADV 144867
	)	
Respondents.	)	**RESPONDENTS' BRIEF IN**
	)	**OPPOSITION TO RELATOR'S**
	)	**MOTION TO STAY PROCEEDINGS**
	)	**IN PROBATE AND COMMON PLEAS**
	)	**COURTS**

STATEMENT OF FACTS AND PROCEEDINGS

On April 26, 2010, relator Valentine Schurowliew commenced this original action in prohibition in the Supreme Court of Ohio. Relator's Complaint appears to seek primarily a writ of prohibition to prevent further proceedings in the pending matter of Vera Schurowliew, et al. vs. Valentine G. Schurowliew, which is docketed in the General Division of the Cuayhoga County Court of Common Pleas as Case No. 09 CV 684581 and over which respondent Judge Lance Mason is presiding.

On April 29, 2010, relator filed in this Court a document captioned, "Motion to Stay Proceedings in Probate and Common Pleas Courts Pending Ruling on Extraordinary Writ of Prohibition." Relator's motion seeks a stay of proceedings not only as to the above-referenced General Division Case No. 09 CV 684581 but also to Probate Division Court Case No. 2009 ADV 144867, over which respondent Judge Laura Gallagher is presiding.

For the reasons that follow, respondents Judge Gallagher and Judge Mason respectfully urges this Court to deny relator's motion to stay proceedings in the Probate and General Divisions of the Cuyahoga County Court of Common Pleas.

ARGUMENT AND LAW

Relator's motion to stay proceedings in the Probate and General Divisions of the Cuyahoga County Court of Common Pleas should be denied for several reasons.

First, because relator is seeking a writ of prohibition in this case, no stay of the lower court proceedings is necessary because the writ of prohibition would provide all the relief necessary. Decisions by this Court confirm that if a lower court patently and unambiguously lacks jurisdiction to proceed in a case, a writ of prohibition will issue to prevent the further unauthorized exercise of jurisdiction and to correct the results of prior unauthorized actions. See, e.g., *State ex rel. Blanchard Valley Health Assn. v. Bates*, 112 Ohio St.3d 146, 2006-Ohio-6520, 858 N.E.2d 406, at ¶ 10; *State ex rel. Russo v. McDonnell*, 110 Ohio St.3d 144, 2006-Ohio-3459, 852 N.E.2d 145, at ¶ 22.

So even if relator were correct that either or both of the respondents lacked jurisdiction to conduct proceedings – a claim the respondents dispute and will address in due course – the writ of prohibition relator seeks here would fully correct the results of any prior unauthorized actions by these respondents. Thus, granting a stay of proceedings here would really serve no efficacious purpose.

Second, the matters that relator seeks to avoid – amended pleadings and differing scopes of civil discovery – hardly constitute onerous legal burdens. Nothing in relator's motion to stay proceedings explains the urgency or necessity for obtaining provisional relief at this stage of the proceedings.

Third, granting relator the requested stay of proceedings here would only serve to disrupt and delay judicial proceedings in the courts below. Relator's motion to stay does not provide any legitimate justification to impede the progress of judicial proceedings in those courts.

Accordingly, respondents Judge Lance Mason and Judge Laura Gallagher respectfully urge this Court to deny relator's motion to stay proceedings in the Probate and General Divisions of the Cuyahoga County Court of Common Pleas.

Respectfully submitted,

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PROOF OF SERVICE

A true copy of the foregoing Respondents' Brief in Opposition to Relator's Motion to Stay Proceedings in Probate and Common Pleas Courts was served this 6TH day of May 2010 by regular U.S. Mail, postage prepaid, upon:

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