

IN THE SUPREME COURT OF OHIO

Abubakar Atiq Durrani, M.D., et al.,	:	
	:	Case No. 2015-2080
Appellants,	:	
	:	
v.	:	On Appeal from the Hamilton County
	:	Court of Appeals, First Appellate District
Judge Robert P. Ruehlman,	:	
	:	Court of Appeals
Appellee.	:	Case No. C1500547

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I. INTRODUCTION

Judge Robert P. Ruehlman was one of many judges in the Hamilton County Court of Common Pleas with cases before him filed by various plaintiffs against Appellants, Abubakar Atiq Durrani, The Center for Advanced Spine Technology, Cincinnati Children's Hospital Medical Center, Journey Lite of Cincinnati, LLC, Riverview Health Institute, TriHealth, Inc. f/d/b/a Good Samaritan Hospital, The Christ Hospital, UC Health and West Chester Hospital, LLC (collectively referred to as "Appellants"). The vast majority of plaintiffs moved to consolidate the cases and the motion to consolidate was granted by Judge Ruehlman. Appellants filed a complaint for writ of mandamus and prohibition alleging that Judge Ruehlman lacked jurisdiction to issue the consolidation order because, according to the allegations of the complaint, he was not the correct judge to rule on the motion to consolidate under the Local Rules of the Hamilton County Court of Common Pleas. Local rules of court, however, do not relate to the jurisdiction of a court. Accordingly, any failure to follow the local rules of a court does not deprive a judge of jurisdiction and certainly does not patently and unambiguously deprive a judge of such jurisdiction. Therefore, even when assuming the allegations of Appellants' complaint as true, Judge Ruehlman did not patently and unambiguously lack jurisdiction to rule on the motion to consolidate. In addition, prohibition and mandamus are not substitutes for an appeal of an interlocutory order, such as an order granting a motion to consolidate. Accordingly, to the extent Appellants believe the motion to consolidate was improperly granted they will have an adequate remedy by way of appeal.

Because Judge Ruehlman did not patently and unambiguously lack jurisdiction to rule upon the motion to consolidate and Appellants have an adequate remedy by way of appeal, the

First District Court of Appeals correctly granted Judge Ruehlman's motion to dismiss Appellants' complaint and the dismissal of the complaint should be affirmed.

II. STATEMENT OF FACTS

Appellants filed a complaint for writ of mandamus and writ of prohibition against Judge Ruehlman in the First District Court of Appeals. The complaint stemmed from cases filed against Appellants in the Hamilton County Common Pleas Court related to medical care provided by Abubakar Atiq Durrani (the "Durrani Cases"). (Transcript of Docket ("T.d." 1, Compl., Introduction). The Durrani Cases involve over fifty former patients of Durrani. (Compl. ¶ 18). Judge Ruehlman was one of at least twelve judges in the Hamilton County Court of Common Pleas to whom the Durrani Cases were randomly assigned. (Compl. ¶ 21).

The vast majority of Plaintiffs moved to consolidate the Durrani Cases to the docket of Judge Ruehlman and the motion to consolidate was filed in sixty three of the Durrani Cases, including in cases originally assigned to Judge Ruehlman. (Compl., ¶ 23, Exh. B). Various Appellants opposed the motion to consolidate arguing that consolidation was not appropriate under Civil Rule 42. (Compl. ¶ 26). The motion to consolidate was granted by Judge Ruehlman and the Durrani Cases were consolidated before Judge Ruehlman. (Compl., Exh. F).

In their complaint, Appellants alleged that consolidation was procedurally inappropriate pursuant to Civil Rule 42 and Local Rule 7(G). (Compl. ¶¶ 38-39). More specifically, Appellants alleged that Hamilton County Local Rule 7(G) required that the motion to consolidate be heard by the judge with the lowest case numbered Durrani Case and that Judge Ruehlman was not the judge with lowest numbered case. (Compl. ¶ 27, ¶¶ 37-39). Appellants alleged that they had no adequate remedy at law because their appeal of the order consolidating the Durrani Cases was dismissed by the First District Court of Appeals because it was not a final and appealable

order. (Compl. ¶¶ 58-59). After the order consolidating the Durrani Cases was issued and pursuant to that order, Judge Ruehlman issued entries transferring the Durrani Cases to his docket. (Compl. ¶ 44).

Based on these allegations, Appellants sought a writ prohibiting Judge Ruehlman from making decisions and entering orders in the cases transferred to his docket as a result of the consolidation order. (Compl. ¶¶ 64-69). Appellants also sought a writ requiring Judge Ruehlman to take all steps necessary to ensure that the cases transferred to his docket as a result of the consolidation order be sent back to the original judges. (Compl. ¶¶ 71-76).

Judge Ruehlman filed a motion to dismiss the complaint for the writs. (T.d. 4). The First District Court of Appeals granted the motion to dismiss finding that Judge Ruehlman was not clearly and unambiguously without jurisdiction, and that the Appellants had an adequate remedy at law by means of an appeal.¹ (T.d. 13).

After the entry dismissing Appellants' complaint was issued, Appellants filed a motion for reconsideration asking the Court of Appeals to reconsider its dismissal of the complaint. (T.d. 15). Judge Ruehlman filed a response to the motion for reconsideration and a separate motion to strike it from the record. (T.d. 16; T.d. 17). The Court of Appeals denied the motion for reconsideration and in light of the denial, held that the motion to strike was moot. In the motion for reconsideration, Appellants attempted to expand the record by setting forth alleged facts, not contained within their complaint, which they allege occurred since the dismissal of their complaint for mandamus and prohibition. (T.d. 15). In their brief, Appellants are attempting to rely, in part, upon the allegations from their motion for reconsideration in presenting their

¹In the Court of Appeals, Judge Ruehlman focused his motion to dismiss upon one of the three required elements for a writ of prohibition and a writ of mandamus. By doing so, Judge Ruehlman did not and is not conceding that Appellants would be able to meet their burden of establishing any of the required elements of their mandamus or prohibition claims.

arguments that their mandamus and prohibition claims were improperly dismissed. Judge Ruehlman respectfully submits that the only subject at issue in this appeal is whether the four corners of the complaint alleged facts sufficient to state claims for mandamus and prohibition. Any factual allegations made by Appellants in their motion for reconsideration that were not made in the complaint are not at issue.

III. ARGUMENT

A. Standard of review

Actions in prohibition and mandamus are civil proceedings. *State ex rel. Steffen v. Myers*, 1st Dist. No. C-130550, 2014-Ohio-2162, ¶ 15 (“An action in prohibition is civil in nature”); *State ex rel. Widmer v. Mohney*, 11th Dist. No. 2007-G-2776, 2008-Ohio-1028, ¶ 31 (Mandamus is a civil proceeding). Therefore, a complaint for writ of prohibition and mandamus may be dismissed under Civ. R. 12. *Myers*, ¶ 15 (a complaint for writ of prohibition may be dismissed under Civ.R. 12); *State ex rel. Jordan v. Pike*, 7th Dist. No. 08 CO 43, 2009-Ohio-2215 (dismissing petition for writ of mandamus under Civ.R. 12(B)(6)).

A judgment granting a Civ.R. 12(B)(6) motion is subject to de novo review. *Perrysburg Twp. v. Rossford*, 103 Ohio St.3d 79, 2004-Ohio-4362, ¶ 5. In deciding a motion brought pursuant to Civil Rule 12(B)(6), the complaint may be dismissed when it appears beyond a doubt that plaintiff can prove no set of facts that entitles him to relief. *Desenco, Inc. v. Akron* (1999), 84 Ohio St.3d 535, 538, 706 N.E.2d 323. In making this determination, a court presumes that the factual allegations of the complaint are true and all reasonable inferences are made in favor of the non-moving party. *Id.* Unsupported conclusions alleged in a complaint, however, are not presumed to be true and are not sufficient to withstand a motion to dismiss. *State ex rel. Hickman v. Capots* (1989), 45 Ohio St. 3d 324, 324, 544 N.E.2d 639; *Mitchell v. Lawson Milk*

Co. (1988), 40 Ohio St. 3d 190, 193, 532 N.E.2d 753 (“Unsupported *conclusions*. . . are not taken as admitted by a motion to dismiss and are not sufficient to withstand such a motion”) (emphasis in original).

To be entitled to a writ of mandamus, a party must be able to establish the existence of the following three elements: “ * * * first, that he has a clear right to the relief prayed for; second, that the respondent is under a clear legal duty to perform the act requested; and third, that the relator has no plain and adequate remedy in the ordinary course of law.” *State ex rel. Greene v. Enright* (1992), 63 Ohio St.3d 729, 731. To be entitled to a writ of prohibition, a party must “establish that (1) respondent is about to exercise judicial or quasi-judicial power, (2) the exercise of that power is unauthorized by law, and (3) denying the writ would result in injury for which no other adequate remedy exists in the ordinary course of law.” *State ex rel. Sliwniski v. Unruh*, 118 Ohio St.3d 76, 2008-Ohio-1734, ¶ 7 citing *Tatman v. Fairfield Cty. Bd. of Elections*, 102 Ohio St.3d 425, 2004-Ohio-3701, ¶ 14.

“Neither mandamus nor prohibition will issue if the party seeking extraordinary relief has an adequate remedy in the ordinary course of law.” *Dzina v. Celebrezze*, 108 Ohio St.3d 385, 2006-Ohio-1195, ¶ 12. In the absence of a patent and unambiguous lack of jurisdiction, a court having general subject-matter jurisdiction can determine its own jurisdiction, and a party contesting that jurisdiction has an adequate remedy by appeal. *State ex rel. Powell v. Markus*, 115 Ohio St.3d 219, 2007-Ohio-4793, ¶ 8.

B. Response to Appellants' proposition of Law Number 1: A relator does not allege facts sufficient to support the conclusion that a judge patently and unambiguously lacks jurisdiction by alleging that the judge did not follow a local rule of court

1. Judge Ruehlman did not patently and unambiguously lack jurisdiction to order the consolidation of the Durrani Cases

Appellants' complaint alleged that Judge Ruehlman improperly consolidated the Durrani Cases pursuant to Civil Rule 42 and Hamilton County Local Rule 7(G). In their brief, Appellants have abandoned their argument related to Civil Rule 42 and focus exclusively upon their argument that, in their view, Judge Ruehlman patently and unambiguously lacked jurisdiction to order the consolidation of the Durrani Cases because, in their view, he was not the proper judge to hear the motion to consolidate pursuant to the Hamilton County Local Rules. Appellants' argument fails. It is well established that local rules of court do not enlarge, reduce or otherwise affect the jurisdiction of a court. Accordingly, Appellants' complaint failed to allege any facts supporting the conclusion that Judge Ruehlman lacked jurisdiction to order the consolidation of the Durrani Cases let alone that he patently and unambiguously lacked jurisdiction to do so.

The local rules of court pertain to procedure, not the jurisdiction of the court. *Cole v. Central Ohio Transit Authority*, 20 Ohio App.3d 312, 312-13 (1984). To that end, local rules of a court do not enlarge, reduce or otherwise affect jurisdiction of that court. *Martin v. Lesko*, 133 Ohio App.3d 752, 757 (1999); *see also Woodard v. Colaluca*, 8th Dist. No. 101327, 2014-Ohio-3824, ¶ 7 (the local rules could not extend or limit a court's jurisdiction); *see also Palmer-Donavin v. Hanna*, 10th Dist. No. 06AP-699, 2007-Ohio-2242, ¶ 13 (local rules are procedural in nature and do not extend or limit a court's jurisdiction).

Appellants have not cited to any case which held that an alleged deviation from a court's local rules deprives a judge of that court of jurisdiction. The case of *State ex. rel. Moir v. Kovack*, Slip Opinion No. 2016-Ohio-158, relied upon by Appellants, dealt with a judge issuing an order related to a case in which she had already recused herself. The case of *State ex rel. Sartini v. Yost*, 96 Ohio St.3d 37 (2002), also relied upon by Appellants, dealt with the authority of a court of common pleas to appoint counsel under the provisions of R.C. 305.14. Neither *Moir* or *Sartini* dealt with an alleged deviation from the local rules of court and neither case provides any support to Appellants' argument that Judge Ruehlman's alleged deviation from the local rule pertaining to the policies and procedure of consolidation in the Hamilton County Common Pleas Court deprived him of jurisdiction to order the consolidation of the Durrani Cases. Appellants' argument that the Local Rules of the Hamilton County Common Pleas Court, which are merely in place to "define local practices and procedures" of that court, could somehow patently and unambiguously impact the jurisdiction of Judge Ruehlman lacks merit and is belied by the case law addressing the issue.²

In *Woodard, supra*, the relator filed a prohibition action against a judge and magistrate to prevent them from conducting further judicial proceedings related to a motion for interim attorney fees in the underlying case. *Woodard*, 2014-Ohio-3824, ¶ 1. More specifically, the relator alleged that the respondents exceeded their authority and jurisdiction when they awarded interim attorney fees without following the requirements of a local rule governing the award of attorney fees. *Id.* at ¶ 5. The Eighth District rejected this argument, in part, because the local

² Loc. R. 1(A) for the Court of Common Pleas of Hamilton County, Ohio provides that "[t]he Rules hereinafter set forth shall apply to all divisions of the Court of Common Pleas of Hamilton County, Ohio. The purpose of these rules is to define local practices and procedures of this Court, consistent with the Rules of Superintendence, the Rules of Civil and Criminal Procedure, the Rules of Juvenile Procedure, and such other rules as may be adopted or promulgated by the Supreme Court of Ohio pursuant to Section 5 of Article IV of the Ohio Constitution."

rules of court could not limit a court's jurisdiction and therefore, a judge of the court does not lack jurisdiction just because he or she does not follow a local rule. *Id.* at ¶ 7. Likewise, in *Cole v. Central Ohio Transit Authority, supra*, the Tenth District held that an order referring a case to arbitration, made in violation of a local rule, did not leave the court without jurisdiction to enter judgment on the arbitration award because the local rules pertained to procedure, not the jurisdiction, of a court. *Cole*, 20 Ohio App.3d 312. Here, just as in *Woodard* and *Cole*, Appellants are arguing that an alleged violation of a local rule deprived Judge Ruehlman of jurisdiction. Just as in *Woodard* and *Cole*, this argument fails because the local rules of court did not pertain to Judge Ruehlman's jurisdiction to order the consolidation of the Durrani Cases.

Appellants also cite to the Rules of Superintendence regarding the initial assignment of cases and precedent relating to the reassignment of cases in support of their argument that Judge Ruehlman patently and unambiguously lacked jurisdiction to order consolidation of the Durrani Cases. The assignment and reassignment of the Durrani cases, however, are not at issue in this matter. There is no allegation that the Durrani Cases were not originally assigned in accordance with the Rules of Superintendence. The sole matter at issue is whether Judge Ruehlman lacked jurisdiction to order the consolidation of the Durrani Cases based on the allegations contained within Appellants' complaint. Assuming Judge Ruehlman had jurisdiction to issue the consolidation order, and he did, the reassignment of the Durrani Cases to his docket naturally and appropriately flowed from the consolidation order.³

³Appellants also allege that Judge Ruehlman issued orders in cases not filed in the Hamilton County Court of Common Pleas but that were instead filed in the Butler County Court of Common Pleas. These allegations are not contained within the complaint and therefore, cannot be considered in the context of assessing whether Appellants alleged facts sufficient to state a claim for a writ of mandamus and a writ of prohibition. Appellants also make allegations based on the substance of their motion for reconsideration. Again, any such allegations are not relevant to whether the Court of Appeals properly dismissed their complaint pursuant to Civ. R. 12(B). *See State v. Ishmail* (1976), 54 Ohio St.2d 402 (An appellate court's

According to the allegations of the complaint, Judge Ruehlman was one of at least twelve judges in the Hamilton County Court of Common Pleas with some of the Durrani Cases. Any of the twelve judges would have had jurisdiction to issue an order consolidating the Durrani Cases. Even if Judge Ruehlman did not have the lowest case number or did not have the agreement of all the judges involved, as alleged by Appellants, and therefore, ordered the consolidation of the Durrani Cases in contravention of the local rule governing consolidation, he would not have lacked jurisdiction to rule on the motion to consolidate and certainly did not patently and unambiguously lack jurisdiction to do so.⁴ The local rules of court do not pertain to the jurisdiction of the court. Consequently, Appellants' complaint failed to allege any facts supporting the conclusion that Judge Ruehlman lacked jurisdiction to order the consolidation of the Durrani Cases let alone that he patently and unambiguously lacked jurisdiction to do so.

C. Response to Appellants' proposition of Law Number 2: Neither prohibition nor mandamus may be employed as a substitute for an appeal from interlocutory orders

2. Appellants have an adequate remedy by way of appeal

Neither prohibition nor mandamus are available where a party has an adequate remedy by way of appeal. *Myers*, 2014-Ohio-2162, ¶ 22; *State ex rel. Alhamarshah v. Indus. Comm.*, 2015-Ohio-1357, ¶ 11. To that end, "it is well settled that 'neither prohibition nor mandamus may be employed as a substitute for an appeal from interlocutory orders.'" *Unruh*, 2008-Ohio-1734, ¶ 22 citing *State ex rel. Willacy v. Smith* (1997), 78 Ohio St.3d 47, 51; *State ex rel Daggett v. Gessaman* (1973), 34 Ohio St.2d 55, paragraph three of syllabus.

In this case, the order consolidating the Durrani Cases will become appealable once a

review on appeal is limited to those materials in the record which were before the trial court at the time of the judgment entry under appeal).

⁴ Judge Ruehlman does not concede that he acted in contravention of the Local Rules, but for purposes of appellate review of a decision to grant a motion to dismiss this factual determination is not at issue.

final judgment is issued. *See e.g. Siuda v. Howard*, 1st Dist. Nos. C000656, C-000687, 2002-Ohio-2292 (reviewing whether the trial court erred in granting a motion to consolidate seven cases after a final judgment was issued). As a result, Appellants, to the extent they believe that consolidation was inappropriate, will have an adequate remedy by way of an appeal from the consolidation of the Durrani Cases once a final judgment is issued.

In *State ex rel Daggett v. Gessaman* (1973), 34 Ohio St.2d 55, this Court affirmed the dismissal of a mandamus action involving an interlocutory order on a motion to compel discovery responses because a mandamus action was not a substitute for an appeal from an interlocutory order. *Gessaman* at paragraphs two and three of syllabus. Similarly, relief by extraordinary writ is generally not available to challenge a court's decision on a motion for a change in venue because appeal following a final judgment provides an adequate remedy. *State ex rel. Ruessman v. Flanagan* (1992), 65 Ohio St.3d 464, 467; *State ex rel McCoy v. Lawther* (1985), 17 Ohio St.3d 37, 38-39.

Appellants do not dispute that they would have the right to appeal the consolidation of the Durrani Cases and instead argue that an appeal of the consolidation order would be inadequate. More specifically, Appellants are arguing that an appeal would be inadequate due to time and expense. For example, Appellants argue the following:

- It is not adequate to address the power of a judge to hear the case after the parties expend significant resources to litigate the case (Merit Brief, p. 16).
- Waiting for [Judge Ruehlman] to try any of the disputed Durrani Cases and then have an appeal finally decided while all the other Durrani Cases are litigated before [Judge Ruehlman] is a tremendous and prohibitively expensive and inconvenient burden (Merit Brief pp. 16-17).

Appellants go on to argue that there is no justification for expending the resources necessary to reach the point of appeal. (Merit Brief, p. 17). Appellants' arguments that appeal from any

subsequent adverse final judgment would be inadequate due to time and expense fail. *Whitehall ex rel. Wolfe v. Ohio Civ. Rights Comm.* (1995), 74 Ohio St.3d 120, 124 (affirming summary judgment on a writ of prohibition claim, in part, because the argument that an appeal was inadequate due to time and expense was without merit); *State ex rel. Gillivan v. Bd. Of Tax Appeals* (1994), 70 Ohio St.3d 196, 200 (Relators' argument that an appeal is inadequate because it is too time-consuming and expensive to pursue failed on the basis that such argument is generally insufficient to justify a writ of mandamus).

Appellants also argue that it would be "far more beneficial" to address the consolidation than to wait for a final judgment in one of the cases so an appeal can take place. This argument is exactly why prohibition and mandamus are not substitutes for an appeal of interlocutory orders. Appellants are essentially arguing that it would be more convenient for them if the issue of consolidation could be decided before the interlocutory order becomes final. Pure convenience, however, is not one of the "unique circumstances" when an appeal is not complete, beneficial and speedy. *State ex rel. Smith v. Cuyahoga Cty. Court of Common Pleas* (2005), 106 Ohio St.3d 151, 155. For example, in *Smith*, both the Cuyahoga County and Wayne County courts refused to exercise jurisdiction over a medical malpractice case as they were transferring the case back and forth. Under such circumstances, this Court found that neither court would necessarily proceed to judgment in the case effectively denying any appeal from the orders transferring the case. Accordingly, under the unique circumstances of that case, an appeal was not a complete, beneficial and speedy remedy. Another example of such unique circumstances is *State ex rel. Liberty Mills, Inc. v. Locker* (1986), 22 Ohio St.3d 102. In *Liberty Mills*, the relator was denied an agricultural commodity handler's license. Under such circumstances, this Court held that the relator did not have an adequate remedy via appeal because harvest season would be passed by

the time the appeal was concluded mooted the need for the license. In this case, unlike *Smith*, there is nothing preventing the cases from proceeding to judgment. And, unlike *Liberty Mills*, there are no facts present demonstrating that the issue would be moot by the time of an appeal.

“Where a constitutional process of appeal has been legislatively provided, the sole fact that pursuing such process would encompass more delay and inconvenience than seeking a writ of mandamus is insufficient to prevent the process from constituting a plain and adequate remedy in the ordinary course of law. * * *.” *State ex rel Willis v. Sheboy* (1983), 6 Ohio St.3d 167, paragraph one of the syllabus. Consistent with this precedent, the Sixth District Court of Appeals dismissed a complaint for writ of mandamus and prohibition arising from a common pleas court judge’s granting of a motion to consolidate six wrongful death asbestos cases. *State ex rel. Owens-Corning v. Lucas County Court of Common Pleas*, 6th Dist. No. L-96-355, 1996 WL 660532 (Nov. 8, 1996, unreported). In doing so, the Sixth District noted that the relator had an adequate remedy at law by way of appeal if it is actually prejudiced by the consolidation of the cases. *Id.* At *1. Here, just as in *Owens-Corning*, an appeal is an adequate remedy for Appellants to challenge the consolidation of the Durrani Cases.

The fact that an appeal is an adequate remedy is further crystallized by analyzing the Durrani Cases under the assumption that the motion to consolidate had been granted by a judge – who Appellants would consider to be the correct judge under the local rules. Under those circumstances, Appellants would be in the exact same position (i.e. waiting for a final judgment to appeal the consolidation of the cases). This demonstrates that an appeal from Judge Ruehlman’s consolidation of the Durrani Cases is an adequate remedy. Moreover, if the motion to consolidate were denied, rather than granted, there would be a risk for wildly inconsistent rulings in the trial court regarding legal or factual issues creating the same burdens from an

appeal of those issues now complained about by Appellants. The point is an appeal from the granting or denial of the motion to consolidate is, obviously, the only remedy available for Appellants or the plaintiffs in the Durrani Cases regardless of which judge would have ruled on the motion to consolidate. As such, Appellants are clearly attempting to substitute their mandamus and prohibition actions for an appeal from the consolidation of the Durrani Cases, which is prohibited by the established precedent of this Court. *Unruh*, 2008-Ohio-1734, ¶ 22 citing *State ex rel. Willacy v. Smith* (1997), 78 Ohio St.3d 47, 51; *State ex rel Daggett v. Gessaman* (1973), 34 Ohio St.2d 55, paragraph three of syllabus.

Appellants have an adequate remedy at law by way of an appeal. As such, Appellants failed to allege facts demonstrating that no other adequate remedy exists in the ordinary course of law.

IV. CONCLUSION

Appellants' complaint fails to allege any facts demonstrating that Judge Ruehlman patently and unambiguously lacked jurisdiction to order the consolidation of the Durrani Cases and based on the allegations of the complaint, Appellants have an adequate remedy in the ordinary course of law by a way of an appeal. Consequently, the Court of Appeals correctly granted Judge Ruehlman's motion to dismiss and the judgment of the Court of Appeals must be affirmed.⁵

⁵ In the conclusion section of their brief, Appellants ask this Court to grant their requested writs or in the alternative, to reverse the dismissal of the Court of Appeals and to remand the case. The only matter at issue in this appeal is whether the Court of Appeals correctly dismissed Appellants' complaint. To the extent this Court reverses the decision of the Court of Appeals, and it should not, the case should be remanded so a factual record can be developed. *State ex rel. Fogle v. Steiner* (1995), 74 Ohio St.3d 158, 163 ("Generally, reversal of a court of appeals' erroneous dismissal of a complaint based upon a failure to state a claim upon which relief can be granted requires a remand to that court for further proceedings."); see also *State ex rel Deiter v. McGuire* (2008), 119 Ohio St.3d 384 (reversing judgment of court of appeals dismissing requested writs of warranto and mandamus and remanding to the court of appeals for further proceedings); see also *McAuley v. Smith* (1998), 82 Ohio St.3d 393 (reversing court of appeals' judgment dismissing prohibition claim and remanding case for further proceedings).

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