

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Carr v. McDonnell*, Slip Opinion No. 2009-Ohio-6165.]

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SLIP OPINION NO. 2009-OHIO-6165

**THE STATE EX REL. CARR, APPELLANT, v. MCDONNELL,
JUDGE, ET AL., APPELLEES.**

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may be cited as *State ex rel. Carr v. McDonnell*,
Slip Opinion No. 2009-Ohio-6165.]**

*Appeal from denial of a complaint for writs of prohibition and mandamus —
Judge does not patently and unambiguously lack jurisdiction to proceed —
Adequate remedy at law available — Judgment affirmed.*

(No. 2009-1020 — November 18, 2009 — Decided December 1, 2009.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 93138,
2009-Ohio-2488.

Per Curiam.

{¶ 1} We affirm the judgment dismissing the complaint of appellant, Leonard F. Carr, for a writ of prohibition to prevent appellee Judge John P. O'Donnell of the Cuyahoga County Court of Common Pleas from exercising jurisdiction in *Carr v. Acacia Country Club Co.*, Cuyahoga County Court of

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Common Pleas case No. CV-635329, and *Carr v. Acacia Country Club Co.*, Cuyahoga County Court of Common Pleas case No. CV-682363, and a writ of mandamus to command appellees Judge Nancy McDonnell and Judge Eileen A. Gallagher of that court to transfer those cases from the commercial docket of Judge O'Donnell to the docket of Judge Nancy M. Russo.

{¶ 2} Judge O'Donnell does not patently and unambiguously lack jurisdiction to proceed in these cases. See Temp.Sup.R. 1.03 and 1.04; Sup.R. 4(B) and 36. Carr has an adequate remedy by way of appeal from Judge O'Donnell's rulings in the cases to raise his claim that Judge O'Donnell was improperly assigned to them. See *Keith v. Bobby*, 117 Ohio St.3d 470, 2008-Ohio-1443, 884 N.E.2d 1067, ¶ 14; *State ex rel. Key v. Spicer* (2001), 91 Ohio St.3d 469, 746 N.E.2d 1119 ("a claim of improper assignment of a judge can generally be adequately raised by way of appeal"); *State ex rel. Berger v. McMonagle* (1983), 6 Ohio St.3d 28, 30, 6 OBR 50, 451 N.E.2d 225 (mandamus and prohibition are not substitutes for appeal to contest alleged improper assignment of judge).

Judgment affirmed.

MOYER, C.J., and PFEIFER, LUNDBERG STRATTON, O'CONNOR, O'DONNELL, LANZINGER, and CUPP, JJ., concur.

Leonard F. Carr, L. Bryan Carr, and Robert P. DeMarco, for appellant.

Benesch, Friedlander, Coplan & Aronoff, L.L.P., Robert A. Zimmerman, and Mark D. Tucker, for appellees.
