



**In the Missouri Court of Appeals
Eastern District
WRIT DIVISION FIVE**

STATE OF MISSOURI ex rel.)	No. ED94859
CAROL ECKELKAMP, et al.,)	
)	Writ of Prohibition and/or
Relators,)	Mandamus
)	
vs.)	
)	Appeal from the Circuit Court
THE HONORABLE DAVID C. MASON,)	of the City of St. Louis
)	
)	Case No: 22052-00813-02
Respondent.)	
)	Filed: June 22, 2010

OPINION SUMMARY

Relators, Louis Heimann, Mary Heimann, and Carol Eckelkamp as Conservator of the Estates of Mitchell and Melanie Heimann, seek a writ of prohibition, or alternatively, a writ of mandamus, disqualifying Respondent, the Honorable David C. Mason, from proceeding as trial judge on remand after appeal. Relators argue that Judge Mason should have granted their application for change of judge under Rule 51.05¹ because it was timely filed.

WRIT OF PROHIBITION GRANTED.

Division Five holds: Under the central docketing system in place in the Circuit Court for the City of St. Louis, the designation of Judge Mason as the new trial judge on remand started the running of the time for filing the application for change of judge under Rule 51.05. Because Relators' application was filed within 30 days from the new designation of trial judge, their application was timely under Rule 51.05, and therefore they were entitled to an automatic change of judge.

Opinion by: Glenn A. Norton, P.J., Nannette A. Baker, J., and Kenneth E. Romines, J., concur

Attorneys for Relators: Stephen H. Ringkamp and Theresa A. Appelbaum

¹ All references to Rules are to Missouri Supreme Court Rules (2010).

Attorneys for Plaintiff: Ronnie L. White and Thomas E. Schwartz

Attorneys for Defendant: Thomas E. Jones and Harlan A. Harla

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.