COURT OF APPEALS
DECISION
DATED AND FILED

July 15, 2014

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. *See* WIS. STAT. § 808.10 and RULE 809.62.

Appeal Nos. 2013AP1234
2013AP2741

Cir. Ct. No. 2010CV14886

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

ESTATE OF GEORGE GREGOVICH, BY JOHN GREGOVICH, PERSONAL REPRESENTATIVE OF THE ESTATE OF GEORGE GREGOVICH AND LUANNE GREGOVICH, BY JOHN GREGOVICH, GUARDIAN OF HER PERSON, AND SANDRA BUDZIEN, GUARDIAN OF HER ESTATE,

PLAINTIFFS-APPELLANTS,

V.

AUER STEEL & HEATING SUPPLY, AURORA PUMP, CLEAVER-BROOKS, INC., CRANE CO., EATON CORPORATION, GENERAL ELECTRIC COMPANY, HONEYWELL INTERNATIONAL, INC., ITT CORPORATION, D/B/A BELL & GOSSETT PUMPS AND KENNEDY VALVES, KOHLER CO., LENNOX INDUSTRIES, INC., MILWAUKEE STOVE & FURNACE SUPPLY CO., ROCKWELL AUTOMATION, STERLING FLUID SYSTEMS USA, LLC, FMC CORPORATION, AS SUCCESSOR-IN-INTEREST TO PEERLESS PUMPS, SUPERIOR BOILER WORKS, INC., WEIL-MCLAIN AND YEOMANS CHICAGO CORPORATION P/K/A CHICAGO PUMP CO.,

DEFENDANTS-RESPONDENTS,

METROPOLITAN LIFE INSURANCE COMPANY, OAKFABCO, INC., RHEEM MANUFACTURING CO. AND SPX CORPORATION,

DEFENDANTS.

APPEALS from orders of the circuit court for Milwaukee County: JEFFREY A. CONEN, Judge. *Orders affirmed; orders reversed and remanded with directions*.

Before Fine, Kessler and Brennan, JJ.

¶1 FINE, J. This is an asbestos-mesothelioma case, which the circuit court dismissed on summary judgment. John P. Gregovich, personal representative of the estate of George Gregovich, and Luanne Gregovich by John Gregovich, guardian of her person, and Sandra Budzien, guardian of her estate, appeal the orders granting summary judgment to sixteen defendants: (1) Cleaver-Brooks, Inc., (2) Honeywell International, Inc., (3) General Electric Company, (4) Eaton Corporation, (5) Aurora Pump, (6) ITT Corporation, (7) FMC Corporation and Sterling Fluid Systems; (8) Yeomans Chicago Corporation; (9) Lennox Industries, Inc., (10) Auer Steel & Heating Supply, (11) Milwaukee Stove & Furnace Supply Company, (12) Rockwell Automation, (13) Superior Boiler Works, Inc., (14) Crane Company, (15) Kohler Company, and (16) Weil-McLain. Except as noted in this opinion, we refer to the appellants as "Gregovich" and use the singular.

¶2 Gregovich contends that the circuit court erroneously exercised its discretion when it refused to consider the summary-judgment materials he

submitted either because the response briefs were over the local-rule, 25-page limit or because Gregovich filed his summary-judgment materials a few days late. We reverse the grant of summary judgment of all the defendants listed here, except Rockwell Automation and Lennox Industries, and remand with directions that the circuit court allow Gregovich to file its summary-judgment materials as to Superior Boiler Works, Inc., Crane Company, Kohler Company, and Weil-McLain and to consider Gregovich's summary-judgment materials already filed as to the other defendants. The circuit court shall then, after consideration of the entire Record, decide the summary-judgment motions broken down as to each of these fourteen defendants. The breakdown shall identify whether genuine issues of material fact exist as to each defendant, and if genuine issues of material fact do exist, the circuit court shall specify what the disputed issues are as to each defendant. *See* WIS. CONST. art. VII, § 5(3) ("The appeals court ... shall have supervisory authority over all actions and proceedings in the courts of the district."); WIS. STAT. § 752.02 ("The court of appeals has supervisory authority over all actions and proceedings in all courts except the supreme court.").

¶3 We affirm the order granting summary judgment to Rockwell Automation because the circuit court accepted Gregovich's summary-judgment materials opposing Rockwell's summary-judgment motion as that response brief met the page limits, and because the trial court's decision dismissing Rockwell was correct. We also affirm the order granting summary judgment to Lennox because Gregovich's argument as to Lennox is not adequately developed.

I.

¶4 George Gregovich alleged that exposure to asbestos from the sixteen defendants named in the caption caused his mesothelioma. Gregovich died

eighteen months after filing this lawsuit, which is now pursued by the named appellants. All sixteen defendants asked for summary judgment. Gregovich's responses to the defendant's motions were due January 4, 2013. Minutes before 5:00 p.m. on January 4, 2013, Gregovich's representative hand delivered to the circuit court his response briefs, affidavits, and supporting materials in opposition to the summary-judgment motions filed by all of the defendants listed in paragraph one, except Superior Boiler Works, Inc., Crane Company, Kohler Company, and Weil-McLain. Gregovich did, however, on January 7, 2013, serve all the defendants with a combined-response brief opposing Superior Boiler Works's, Crane Company's, Kohler Company's and Weil-McLain's summary-judgment motions. On January 9, 2013, Gregovich filed supporting *affidavits*, as to these four defendants, with the circuit court for a response brief that had not yet been, and never would be filed because its late submission was rejected by the circuit court.

¶5 As material here, all but one of the briefs Gregovich filed with the circuit court exceeded the page limit set out in Milwaukee County Circuit Court Rule 3.15(F):

> 3.15 Summary Judgment Motions
>
> ….
>
> F. Briefs in support of or in opposition to such motions shall not exceed 25 pages in length and reply briefs shall not exceed 10 pages in length, exclusive of affidavits and exhibits. Briefs in excess of the permitted length may be disregarded by the court. The court may modify these limitations upon a showing of good cause.

The table below sets out the name of each defendant and the number of pages in Gregovich's response brief as to each defendant:

Cleaver Brooks, Inc.	31 pages
Honeywell International, Inc.	29 pages
General Electric Company	37 pages
Eaton Corporation	27 pages (plus the signature page)
Aurora Pump	33 pages
ITT Corporation	34 pages
FMC Corporation and Sterling Fluid	32 pages
Yeomans Chicago Corporation	34 pages
Milwaukee Stove & Furnace Supply; Lennox Industries, Inc.; Auer Steel & Hearing Supply	30 pages
Rockwell Automation	25 pages

¶6 Milwaukee County Circuit Court Rule 3.6(E) puts a 250-page limit on affidavits:

> 3.6 Filing Papers
>
> ….
>
> E. Unless the court grants permission in writing and in advance, the clerk shall not accept for filing any affidavit, including exhibits, which exceeds 250 pages in length, except affidavits in actions contesting insurance coverage to which the attached exhibits consist only of insurance policy documents.

Gregovich's affidavits and supporting documents complied with this page limitation, but four of the defendants' affidavits did not. Two of those four defendants are involved in this appeal: Aurora Pump's affidavits exceeded the

page limit by 22 pages and Eaton Corporation's affidavits exceeded the page limit by 191 pages.

¶7 On January 8, 2013, the circuit court notified the parties, by order, that it would be "disregarding" Gregovich's response briefs that "were in excess of the 25-page limit." The circuit court's order did not mention affidavits, and it did not "disregard" the affidavits of those who violated Rule 3.6(E) (as material here, Eaton Corporation and Aurora Pump). According to Gregovich, he tried to file amended responses on January 9, 2013, that met the local-rule page limit and that appellants allege "were substantively identical to the originally filed Responses" but had the "Factual Background" and "Standard of Review" sections removed as these sections had been repeated in each brief as a convenience for the circuit court, but the circuit court refused to accept them. On January 10, 2013, Gregovich asked the court by formal motion to allow him to submit the amended, shorter response briefs. The circuit court set Gregovich's motion for hearing on January 29, 2013, the same day it was to consider the defendants' summary-judgment motions.

¶8 On January 14, 2013, the circuit court told Gregovich by letter that:

> The court is not in receipt of your response briefs to the motions for summary judgment filed by defendants Kohler Co., Superior Boiler Works, Inc., Weil-McLain and Crane Co. For purposes of the motion hearing on January 29, 2013, the court assumes that you have not responded to these defendants' motions.

On January 17, 2013, the circuit court got Gregovich's motion asking "to allow late filing" of his combined response brief opposing Superior Boiler Works's, Crane Company's, Kohler Company's and Weil-McLain's summary-judgment motions. Gregovich did not include the combined response brief with the motion.

The circuit court also set Gregovich's motion in connection with Superior Boiler Works, Crane Company, Kohler Company, and Weil-McLain for a hearing on January 29, 2013, the same day it was to consider the defendants' summary-judgment motions.

¶9 On January 29, 2013, the circuit court held the summary-judgment hearing. The circuit court asked Gregovich's lawyer if he "want[ed] to be heard" on the circuit court's "order that [it is] not taking into account any of the briefs that were filed" "in excess of the page limit." Gregovich's lawyer answered:

> Thank you, Your Honor. First up, I apologize to the Court for those briefs in excess. And I apologize to your staff for having to handle them. I realized that was an inconvenience. It was obviously just an oversight. I've practiced long enough to know the local rule. And when -- That was a lot of work to get done, and quite frankly, it just got away. So I don't have a good excuse that I can come clean for mercy from the Court. But I understand the burden it was on the Court, and I am sorry for that. I hope I still should be able to argue and argue from -- … the affidavits[.]

¶10 At this point, the circuit court interrupted and said:

> No. … No. There will be no argument on the briefs. If there is [*sic*] no briefs that are filed, *I'm not going to allow argument* because, basically, what that does is that says, either you don't file a brief or you violate the rules and then you get to read the brief into the record. And I'm not going to sit here all day long, having a brief be read into the record. I have not read any of them, therefore, I am not prepared. And I'm not going to sit in an oral argument not being prepared. And I haven't read them because they exceeded the page limit. And let the record reflect, that they did not exceed the page limit by three words or half a page. The least offensive was three pages, and there was only one, and the most offensive was 12 pages or 14 pages; and you multiply that by ten defendants and that's an extra hundred pages. … So at three minutes to 5:00 on January 4th, when somebody walks in the door with three-thousand pages of documents to file with the Court, obviously, the

> Court is not terribly pleased. It's not even that they were filed early, they were filed at three minutes to 5:00 on Friday. And, actually, if your delivery person got here two minutes later, you would have had nothing because it would have been filed late.
>
> Here is another problem, there are three briefs I think defense counsel received that I never received. And those also are not being taken into account, unless you have a file stamped copy of those briefs, and somehow we lost them, and I don't think we lost them because whatever was filed with the Court was filed [*sic*] stamped.

(Emphasis added.)

¶11 Gregovich's lawyer then told the circuit court that the briefs submitted:

> [w]ere standardized in the sense that the statement of facts and background information and the [applicable] standard of review … were all … the same. And as crazy as it sounds now, I actually did that in an attempt to make it easier for the Court to have that information readily available rather than having to, you know, refer back. So the part of each brief that was ultimately new, if you want to put in that way, or individualized each defendant was, in fact, only a few pages.

¶12 The circuit court responded: "Well, I wouldn't know because I have not read them." The circuit court continued:

> You know, I hate doing this. I really do. But this is not a one-defendant case where we have a few extra pages where we can turn around and say, okay. I'll put you back on the calendar next week and we'll read through it and get it done. Or what the heck, I'll just read the handful of extra pages and get this done. This is massive amounts of work. When the original briefs of the defendants were filed, they took up two bankers boxes because of the number of defendants. And if you multiply the number of defendants by 25 pages, that's a lot of pages. Including the -- or excluding the attachments which obviously took up a lot of space. So, I mean, that's an awful lot of reading, and that's an awful lot of work to put together and get done in a week and a half or two weeks when I have a full calendar.

¶13 The circuit court next asked about the response briefs to Superior Boiler Works, Inc., Crane Company, Kohler Company and Weil-McLain that Gregovich never filed with the circuit court. Gregovich replied that he did not know what happened to the original and the circuit court said "to this day, we still haven't received a copy of those briefs." Gregovich's lawyer reminded the circuit court that he "tried to file them [after he learned that the circuit court never received them but] the Court refused them."

¶14 The circuit court responded:

> Right. Because what am I suppose[d] to do with them, after the fact? As I said, I mean, I don't want to do this. Doesn't make me happy to do what I'm -- what it is, but this is such a gross violation of the local rules and of just general statutes in terms of serving and filing matters and promptly doing so, that I really have no other choice. I'm not taking any of them into account, and there is going to be no oral argument with regard to any of those cases.

Rockwell Automation is the only defendant on this appeal that the circuit court allowed Gregovich to argue in response to its motion for summary judgment.

¶15 After telling Gregovich's lawyer it would not hear "oral argument with regard to any of those cases," which included all the defendants in this appeal, as material, except Rockwell, the circuit court then went through the defendant's summary-judgment motions with the defense lawyers. The first up was Milwaukee Stove. During the discussion with Milwaukee Stove's lawyer, the circuit court addressed Gregovich's lawyer: "And there's been no affidavits [refuting Milwaukee Stove's position that "the plaintiffs have not provided any evidence of any specific job, location, or worksite which Mr. Gregovich used asbestos-containing materials that were purchased from Milwaukee Stove]. And here is the other problem, [Gregovich's lawyer], if I allow you to argue today, how

will you argue without affidavits?" Gregovich's lawyer answered, "Well, I submitted an affidavit in response to the Milwaukee Stove argument, Your Honor. But -- " The circuit court interrupted:

> THE COURT: It's not taken into account. So how am I suppose[d] to do it without affidavits? You're telling me that you were going to do an oral argument which means that I take into account nothing in writing, but only arguments. It's part of the submission that I'm not taking into account because it has violated the -- it has violated the local rules.
>
> [GREGOVICH'S LAWYER]: Well, given your other orders, I assume you're not going to let me argue orally.
>
> THE COURT: Well, even if I did, if I'm not taking into account any of the written submissions right now, therefore, there's nothing for you to argue because there is no affidavit that's in opposition. Because it's not being taken -- it has not been filed. In other words, if we had time to do it and it came to my attention when I was here and we had more than three minutes to do something with it, I would have told my clerk to hand them all back and we're not taking any of them that are over the page limit. But, it was last minute, didn't see it until Monday morning, and that was that.
>
> So the Court is going to grant summary judgment in favor of Milwaukee Stove and Furnace Supply.

¶16 The hearing continued as the circuit court considered each of the defendant's summary-judgment arguments without any input from Gregovich's lawyer until the circuit court got to Rockwell Automation. The circuit court allowed Gregovich's lawyer to argue in opposition to Rockwell's motion for summary judgment because the summary-judgment materials Gregovich filed in response to Rockwell's motion complied with the local-rule page limits. Rockwell asserted that "there is no evidence that Mr. Gregovich was exposed to a Rockwell asbestos-containing product," and "there are no facts to indicate that a particular

Allen Bradley product that Mr. Gregovich worked with actually did contain asbestos." Rockwell is Allen Bradley's successor in interest. Gregovich's lawyer argued that:

- "Mr. Gregovich was employed for his entire sheet metal career, working as, basically, a maintenance person that would go to businesses and to industrial sites, and he would repair boilers and including their electrical parts and including their -- all their components."

- Before Mr. Gregovich died, he testified at a video deposition "that Allen Bradley was one of the suppliers that he used. He also testified that when they would use these controls, there was dust created by replacing, dust created by attaching them, dust created when they would occasionally break, and that he believed this was asbestos dust and that he was exposed to that dust -- breathe dus[t] in the course of p[er]forming these repairs to the electrical components of furnaces."

¶17 The circuit court corrected Gregovich's lawyer saying that "what supposedly was contained within these controls was an item called Bakelite." Gregovich's lawyer acknowledged that the product from Rockwell contained Bakelite, and then told the circuit court that:

> Bakelite is actually a trademark product by Union Carbide Corporation. And there are two branches of Bakelite, one branch of it is called molding compound. And a molding compound in -- and Union Carbide doesn't dispute -- is the molding compounds were used to make circuit breakers, electrical instillators [*sic* insulators?] of that type and that was an asbestos-containing product manufactured by Union Carbide for the electrical industry.

> And it was used. It was a common industrial product, and it was in the -- market until 1974.

¶18 When the circuit court asked if Bakelite contained asbestos, Gregovich's lawyer said: "It did. It contained chrysotile asbestos in varium [*sic* varying? various?] degrees from an amount to, like, 40 to some times up to 90 percent of chrysotile asbestos." The circuit court then asked where this information could be found in the affidavits or submissions. Gregovich's lawyer answered: "I don't think there's an affidavit that says that, Your Honor." The circuit court ruled that Gregovich's claim against Rockwell could not go on without any evidence from an expert that Bakelite contained asbestos:

> You need to come in with some evidence that asbestos was contained within these products. The Court can't take judicial notice of these types of issues. This is precisely what we do when we look at affidavits. Does he have to say that it's 42 percent chrysotile over tremolite asbestos? No. But there has to be some evidence that there is asbestos. I have no idea what Bakelite is. Until you just told me, and even that is not part of the record because that's not in an affidavit, and it's not from somebody who has expertise in the field. And just because Mr. Gregovich says that all the dust in the air he thought was asbestos, I can't make a proper inference from that until you show me that there is some asbestos in the area.

¶19 The circuit court granted summary judgment to all of the defendants and entered orders dismissing Gregovich's claims. Gregovich appealed the orders dismissing the sixteen defendants identified in paragraph one. After some procedural issues not relevant here, we consolidated the cases for purposes of appeal.

II.

¶20 A circuit court grants summary judgment when "there is no genuine issue as to any material fact" and a party "is entitled to a judgment as a matter of law." WIS. STAT. RULE 802.08(2).

> "Under that methodology, the court first examines the pleadings to determine whether claims have been stated and a material issue presented. If the complaint states a claim and the pleadings show the existence of factual issues, the court examines the moving party's affidavits or other evidence for evidentiary facts admissible in evidence or other proof to determine whether that party has made a *prima facie* case for summary judgment. If the moving party made a *prima facie* case, the court examines the opposing party's affidavits for evidentiary facts or other proof to determine whether a genuine issue exists as to any material fact, or reasonable conflicting inferences may be drawn from the undisputed facts, and therefore a trial is necessary."

Bank One, NA v. Ofojebe, 2005 WI App 151, ¶7, 284 Wis. 2d 510, 514–515, 702 N.W.2d 456, 458 (quoted source omitted). We review *de novo* the circuit court's summary-judgment decision, and apply the governing standards "just as the [circuit] court applied those standards." ***Green Spring Farms v. Kersten***, 136 Wis. 2d 304, 314–317, 401 N.W.2d 816, 820–821 (1987). This appeal requires us to review the circuit court's application of a local rule giving the circuit court discretion to ignore briefs that exceeded the page limit on summary-judgment briefs.

¶21 A circuit court has wide discretion whether to impose local rules the result of which may interfere with a party's presentation of claims or defenses. *See* ***Industrial Roofing Services, Inc. v. Marquardt***, 2007 WI 19, ¶41, 299 Wis. 2d 81, 96, 726 N.W.2d 898, 906 (plurality opinion). This is true even if dismissal or default is the result. *See* ***ibid.*** "'A discretionary decision will be

sustained if the circuit court has examined the relevant facts, applied a proper standard of law, and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach.'" ***Ibid.*** (quoted source omitted). Nevertheless, because the law favors on-the-merits resolution of disputes, precluding a party from being heard requires a showing that "the non-complying party has acted egregiously or in bad faith." ***Id.***, 2007 WI 19, ¶43, 299 Wis. 2d at 97, 726 N.W.2d at 906 (plurality opinion).

A. *Dismissal of Cleaver-Brooks, Inc., Honeywell International, Inc., General Electric Company, Eaton Corporation, Aurora Pump, ITT Corporation, FMC Corporation, Sterling Fluid Systems, Yeomans Chicago Corporation, Auer Steel & Heating Supply, Milwaukee Stove & Furnace Supply Company*; *Superior Boiler Works, Inc., Crane Company, Kohler Company, and Weil-McLain.*

¶22 As we have seen, the circuit court granted summary judgment to these defendants without looking at the materials submitted by Gregovich, or as to four of the defendants without allowing submission of the materials at all, to determine whether his materials opposing the defendants' summary-judgment motions showed that "'a genuine issue exists as to any material fact, or reasonable conflicting interferences may be drawn from the undisputed facts.'" *See* ***Bank One, NA***, 2005 WI App 151, ¶7, 284 Wis. 2d at 514–515, 702 N.W.2d at 458 (quoted source omitted). Instead, the circuit court opted to disregard all of Gregovich's summary-judgment submissions because the briefs were longer than the local rule allowed or because the briefs would have been filed a few days late. The circuit court did so because it did not want to read "an extra hundred pages" and saw it as "massive amounts of work." According to the circuit court, it would

have required "an awful lot of reading, and that's an awful lot of work to put together and get done in a week and a half or two weeks when I have a full calendar." And, as to the late response briefs, the circuit court's reason was, "what am I suppose[d] to do with them, after the fact?"

¶23 Even when Gregovich amended the briefs to remove the repetitive "factual background" and "standard of review" that he had included in an attempt to be helpful to the circuit court that brought the briefs well within the local-rule page limitation, the circuit court refused to change its ruling, noting that it did not know that the facts and standard-of-review sections were all the same because it had not read them. The circuit court considered "read[ing] the handful of extra pages" to "get this done," but decided against that because it was too much work. When Gregovich asked to argue his position based on the affidavits, which did comply with the local rule, the circuit court shut him down saying it was "not going to sit here all day long."

¶24 The circuit court, on the other hand, received affidavits from two of the defendants on this appeal (Eaton Corporation and Aurora Pump) even though the affidavits exceeded the local-rule page limitation. The circuit court's refusal to consider the bulk of Gregovich's contentions in effect granted default to the defendants, thereby shutting the courthouse door to fair consideration of most of Gregovich's claims. *See* ***Industrial Roofing Services***, 2007 WI 19, ¶42, 299 Wis. 2d at 96, 726 N.W.2d at 906 ("Although dismissing an action with prejudice is within a circuit court's discretion, it is a particularly harsh sanction. It is therefore appropriate only in limited circumstances.") (plurality opinion); *see also* ***Zielinski v. A.P. Green Industries, Inc.***, 2003 WI App 85, ¶15, 263 Wis. 2d 294, 306, 661 N.W.2d 491, 496 ("'We have often said that the power of the courts

under the summary-judgment statute … is drastic and should be exercised only when it is plain that there is no substantial issue of fact or of permissible inference from undisputed facts to be tried.'") (quoted source and brackets omitted; ellipsis in ***Zielinski***). Although we sympathize with the circuit court's attempt to deal with its workload, *see e.g.* ***DeSilva v. DiLeonardi***, 185 F.3d 815, 817 (7th Cir. 1999) (briefs that do not comply with word limitations "will be returned"), any burden imposed by the late submission of materials could have easily been ameliorated by an adjournment of the summary-judgment hearing, *see* ***Fredrickson v. Louisville Ladder Co.***, 52 Wis. 2d 776, 784, 191 N.W.2d 193, 196–197 (1971). As we have seen, there is nothing in this Record that even hints that Gregovich's missteps were either "egregious" or made in "bad faith." Accordingly, the circuit court erroneously exercised its discretion when it "disregarded" and refused to allow filing of Gregovich's summary-judgment submissions. Although our standard of review is, as we have already seen, *de novo*, it is better practice and significantly helpful to have the circuit court analyze the summary-judgment materials before any appellate review. *See* ***Hilton v. Wright***, 673 F.3d 120, 126 (2d Cir. 2012) ("Although we review grants of summary judgment *de novo*, the opinion of the district court is often helpful in guiding our examination of the record."). Thus, we reverse the orders dismissing these defendants and remand to the circuit court with directions to:

(1) Allow Gregovich to file his summary-judgment materials in response to Superior Boil Works', Crane Company's, Kohler Company's, and Weil-McLain's summary-judgment motions;

(2) Consider all of Gregovich's summary-judgment materials submitted in response to the other defendants named in this part of our opinion;

(3) After considering all of the Record, including the submissions previously disregarded, decide the summary-judgment motions broken down as to each defendant named in this part of our opinion; and

(4) Identify whether any genuine issues of material fact exist as to each of the defendants named in this part of our opinion; and, if any do exist, specify what they are as to each defendant named in this part of our opinion.[1]

B. *Rockwell Automation*.

¶25 As we have seen, the circuit court accepted Gregovich's summary-judgment submissions as to Rockwell and allowed Gregovich's lawyer to argue against Rockwell's summary-judgment motion at the hearing. As we have also seen, Gregovich admitted at the hearing that he did not have an affidavit to support his claim that Bakelite contained asbestos. Without any evidence to show that Rockwell's products contained asbestos, Gregovich's claim against Rockwell must be dismissed. *See* ***Zielinski***, 2003 WI App 85, ¶¶14–20, 263 Wis. 2d at 305–309, 661 N.W.2d at 496–498 (plaintiff has burden to create genuine issue of material fact that he had actual exposure to asbestos-containing product). ***Transportation Insurance Co., Inc. v. Hunzinger Construction Co.***, 179 Wis. 2d 281, 292, 507 N.W.2d 136, 140 (Ct. App. 1993) ("[P]arty asserting a

[1] We do not address Gregovich's arguments that WIS. STAT. § 893.89 (statute of repose) does not bar his claims. If applicable, that issue should be considered by the circuit court on remand. *See* ***Gross v. Hoffman***, 227 Wis. 296, 300, 277 N.W. 663, 665 (1938) (only dispositive issue need be addressed); ***State v. Blalock***, 150 Wis. 2d 688, 703, 442 N.W.2d 514, 520 (Ct. App. 1989) (cases should be decided on the "narrowest possible ground").

claim on which it bears the burden of proof at trial" has the summary-judgment burden "'to make a showing sufficient to establish the existence of an element essential to that party's case.'") (quoted source omitted). We affirm the circuit court's order granting summary judgment to Rockwell.

C. *Lennox Industries*.

¶26 Case law is legion that we will not consider undeveloped or inadequately developed arguments. ***League of Women Voters v. Madison Community Foundation***, 2005 WI App 239, ¶19, 288 Wis. 2d 128, 140, 707 N.W.2d 285, 291. Thus, arguments not developed and only supported by general statements are inadequately presented and may be rejected. ***State v. Pettit***, 171 Wis. 2d 627, 646, 492 N.W.2d 633, 642 (Ct. App. 1992). The only mention that Gregovich makes in his main brief on this appeal in connection with Lennox and asbestos is that although Lennox was not a "supplier [] of asbestos-containing products[,] Lennox … [is a] manufacturer[] of asbestos-containing products." This is wholly insufficient to connect Lennox's asbestos-containing products to Gregovich and his mesothelioma. *See* ***Transportation Insurance Co.***, 179 Wis. 2d at 292, 507 N.W.2d at 140 ("[P]arty asserting a claim on which it bears the burden of proof at trial" has the summary-judgment burden "'to make a showing sufficient to establish the existence of an element essential to that party's case.'") (quoted source omitted).

¶27 We also affirm the circuit court's order granting summary judgment to Lennox.

By the Court.—Orders affirmed; orders reversed and remanded with directions.

Publication in the official reports is not recommended.