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DISTRICT II

April 8, 2026

To:

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You are hereby notified that the Court has entered the following opinion and order:

2025AP795

William Stumpe v. Jeffrey Stumpe (L.C. #2022PR82)

Before Neubauer, P.J., Grogan, and Lazar, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

William Stumpe appeals from an order denying a motion to vacate and set aside a default judgment and judgment on damages. Based upon our review of the briefs and Record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT.

RULE 809.21 (2023-24).¹ For the reasons that follow, we reverse the order and remand the matter for further proceedings consistent with this opinion.

In April 2022, Jeffrey Stumpe (Jeffrey) filed a petition seeking to remove William Stumpe (William) as co-trustee of two trusts.² William subsequently filed a counter-petition seeking to remove Jeffrey as co-trustee of the same trusts.

Between February 2023 and October 2023, Jeffrey filed three motions to compel discovery from William, who at times was represented by counsel and at other times represented himself.³ The motions were either resolved or not pursued, so the circuit court never ruled on them.

On May 14, 2024, Jeffrey filed a fourth motion to compel discovery from William. The motion was mailed to William, who at that time was representing himself and residing in Colorado. The circuit court scheduled a hearing on the motion for May 28, 2024.

William did not appear at the May 28, 2024 hearing. Accordingly, Jeffrey asked the circuit court to enter a default judgment on his petition and strike William's counter-petition. The court agreed to the requested relief, stating:

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

² The two trusts were the Warren R. Stumpe Revocable Living Trust and the Stumpe Spousal Trust.

³ William retained and discharged multiple attorneys while the case was litigated in the circuit court.

I don't have a problem [with the requested relief] based on William's nonappearance today, and what can only be described as a continuous defiance in terms of noncooperation in resolving any issues that have been brought forward.

I note that this case is – on – on William's part, it's 760 – 63 days old. If I'm not mistaken, he has been represented by three different attorneys. All three attorneys have withdrawn. I can only guess as to why they've withdrawn; but, given his responses and action when he has appeared in court, it would be the Court's guess that he's uncooperative with his attorneys.

So it seems only appropriate that your request to have him removed as a co-trustee is – it is a good resolution so that things can get moving on this, and I'll grant that. I'll also grant your request to strike the counter-petition of Mr. William Stumpe asking that Jeffrey Stumpe – Stumpe be removed as a co-trustee[.]

Shortly after the hearing concluded,⁴ William filed a letter asking for an adjournment. In it, he explained that he had just learned of the hearing and was unable to obtain information about how to appear remotely. William also asserted that he had not yet received a copy of Jeffrey's mailed motion. Because the hearing was already completed, the circuit court took no action on the letter. It then entered a written order granting Jeffrey's requested relief.

Less than a week later, William filed a pro se motion to vacate the default judgment entered against him. In an affidavit filed with the motion, William averred that he was unable to attend the hearing because he was not aware of it until the day in question when he checked the Wisconsin Circuit Court Access Program (CCAP) website. He further averred that he never received correspondence from Jeffrey, the circuit court, or his prior counsel about the hearing beforehand.

⁴ According to the docket entries, the hearing ended at 1:40 p.m., and the letter was e-filed at 2:07 p.m.

Following a non-evidentiary hearing on the matter, the circuit court denied William's motion. The court concluded that William had been provided notice of the May 28, 2024 hearing, citing both his registration as an electronic filer⁵ and Jeffrey's affidavit of mailing the notice of hearing.⁶ In addition, the court indicated that it granted the default judgment in part based upon what it perceived as William's "lack of cooperation" with discovery.

William filed an appeal of the circuit court's decision.⁷ A retained attorney⁸ advised him that the court could not proceed with a scheduled damages hearing while the record was in the court of appeals. That advice proved to be incorrect.

While the record was still in this court, the circuit court held a damages hearing on September 9, 2024. William did not appear at it. After the hearing was completed, the court granted Jeffrey's entire request for damages and entered judgment in the amount of \$1,022,540.95 against William.

William subsequently hired a new attorney who filed a motion to vacate and set aside the default judgment and judgment on damages pursuant to WIS. STAT. § 806.07(1)(a), (1)(f), and

⁵ William had registered as an electronic filer in the case on May 23, 2024. However, he told the circuit court that he did not gain access to the electronic filing system until after the May 28, 2024 hearing.

⁶ William acknowledged receiving the mailed notice of hearing after the May 28, 2024 hearing.

⁷ That appeal was later dismissed for lack of jurisdiction due to the absence of a written order. See *Stumpe v. Stumpe*, No. 2024AP1360.

⁸ The retained attorney's representation was limited in scope to accessing/reviewing pleadings and the Record.

(1)(h).⁹ The motion argued, among other things, that (1) the circuit court committed legal error when it entered the default judgment in part based upon alleged discovery violations; (2) the default judgment should be vacated and set aside because of extraordinary circumstances surrounding its entry and because Jeffrey’s petition did not allege sufficient facts; (3) the judgment on damages should be vacated and set aside because it was not based upon a valid finding of liability and because William’s failure to appear at the damages hearing was due to excusable neglect; and (4) William was deprived of due process because of a lack of notice. The motion was supported by an affidavit from William and correspondence from his earlier retained counsel.

Following another non-evidentiary hearing on the matter, the circuit court again denied the motion. The court reiterated its reasons for entering the default judgment and noted that it had previously denied William’s pro se motion to vacate it. The court also noted that it had

⁹ WISCONSIN STAT. § 806.07(1)(a), (1)(f), and (1)(h) provide in relevant part:

(1) On motion and upon such terms as are just, the court ... may relieve a party or legal representative from a judgment, order or stipulation for the following reasons:

(a) Mistake, inadvertence, surprise, or excusable neglect;

....

(f) A prior judgment upon which the judgment is based has been reversed or otherwise vacated;

....

(h) Any other reasons justifying relief from the operation of the judgment.

denied an earlier challenge to Jeffrey’s petition.¹⁰ The court saw no reason to revisit the issues with what it perceived to be a “second reconsideration” request. As for the judgment on damages, the court was satisfied that William had notice of the damages hearing and should have appeared at it. The court then entered a written order on its ruling. This appeal follows.

On appeal, William contends that the circuit court erred in denying his attorney’s motion to vacate and set aside the default judgment and judgment on damages. Whether to grant relief from judgment under WIS. STAT. § 806.07 is a discretionary decision that we will not reverse absent an erroneous exercise of discretion. *Werner v. Hendree*, 2011 WI 10, ¶59, 331 Wis. 2d 511, 795 N.W.2d 423.

When, as in this case, a party moves for relief from judgment under WIS. STAT. § 806.07(1)(h), the circuit court must either hold an evidentiary hearing on the motion or accept the motion’s allegations as true. See *Sukala v. Heritage Mut. Ins. Co.*, 2005 WI 83, ¶10, 282 Wis. 2d 46, 698 N.W.2d 610; *State ex rel. M.L.B. v. D.G.H.*, 122 Wis. 2d 536, 557, 363 N.W.2d 419 (1985).

In exercising discretion under WIS. STAT. § 806.07(1)(h), the circuit court must also “consider a wide range of factors’ in determining whether extraordinary circumstances are present, always keeping in mind the competing interests of finality of judgments and fairness in the resolution of the dispute.” *Miller v. Hanover Ins. Co.*, 2010 WI 75, ¶36, 326 Wis. 2d 640,

¹⁰ The earlier challenge was William’s motion to dismiss Jeffrey’s petition for failure to state a claim pursuant to WIS. STAT. § 802.06(2)(a)6.

785 N.W.2d 493 (quoted source omitted). These include the following five “interest of justice” factors:

[1] whether the judgment was the result of the conscientious, deliberate and well-informed choice of the claimant; [2] whether the claimant received the effective assistance of counsel; [3] whether relief is sought from a judgment in which there has been no judicial consideration of the merits and the interest of deciding the particular case on the merits outweighs the finality of judgments; [4] whether there is a meritorious defense to the claim; and [5] whether there are intervening circumstances making it inequitable to grant relief.

Id., ¶¶36, 41 (quoted source omitted).¹¹

Here, the circuit court did not hold an evidentiary hearing on the motion filed by William’s attorney or accept the motion’s allegations as true. Likewise, the court did not consider the five interest of justice factors when determining whether extraordinary circumstances warranted vacating and setting aside the judgments. In failing to do so, we conclude that the court erroneously exercised its discretion. *See LeMere v. LeMere*, 2003 WI 67, ¶14, 262 Wis. 2d 426, 663 N.W.2d 789 (“[T]he failure to apply the correct legal standards is an erroneous exercise of discretion.”).

It appears that the circuit court’s decision to deny the motion was driven by the idea that it had previously addressed some of the issues raised in it. Indeed, Jeffrey argued that the doctrine of issue preclusion should apply. We are not persuaded that the court’s prior rulings

¹¹ Additionally, in the context of a default judgment, the circuit court must be mindful that WIS. STAT. § 806.07(1) is “remedial in nature and should be liberally construed”; that “the law prefers, whenever reasonably possible, to afford litigants a day in court and a trial on the issues”; and that “default judgments are regarded with particular disfavor.” *Miller v. Hanover Ins. Co.*, 2010 WI 75, ¶31, 326 Wis. 2d 640, 785 N.W.2d 493 (quoted source omitted).

should have a preclusive effect in deciding the motion. After all, the court never held an evidentiary hearing to determine whether William’s conduct was egregious enough to justify the default judgment. Furthermore, whether a petition is legally sufficient to survive a WIS. STAT. § 802.06(2)(a)6 motion is a different question than whether a petition alleges sufficient facts to support a default judgment. See *Klaus v. Vander Heyden*, 106 Wis.2d 353, 359-60, 316 N.W.2d 664 (1982) (“[T]he conclusiveness of a default judgment is limited to the material issuable facts which are well pleaded in the declaration or complaint.”).

Accordingly, we reverse the order and remand the matter so that the circuit court can hold another hearing on the motion filed by William’s attorney. At the hearing, the court shall consider all issues raised in the motion and apply the legal standards referenced above.¹²

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily reversed, and the cause remanded for further proceedings consistent with this opinion, pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals

¹² As a final matter, we note that Jeffrey’s brief improperly cites an unpublished summary disposition order in violation of WIS. STAT. RULE 809.23(3). We warn Jeffrey’s counsel that future violations of the Rules of Appellate Procedure may result in sanctions. See WIS. STAT. RULE 809.83(2).