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**DISTRICT IV**

May 29, 2026

To:

Hon. Gregory J. Jerabek  
Circuit Court Judge  
Electronic Notice

Dee A. Flory  
Electronic Notice

Anita Kellerman

Kimberly Stimac  
Clerk of Circuit Court  
Wood County Courthouse  
Electronic Notice

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

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2025AP2241

Anita Kellerman v. Dee A. Flory (L.C. # 2024CV174)

Before Blanchard, Nashold, and Taylor, 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).**

Dee Flory appeals an order of the circuit court denying her motion for compensatory damages. Flory asserts that she is entitled to damages under WIS. STAT. § 895.044 (2023-24)<sup>1</sup> by virtue of this court's June 2025 summary reversal of an order granting a harassment injunction in favor of Anita Kellerman and against Flory. 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. We affirm.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

Litigation between the parties began in 2024, when Kellerman petitioned for and was granted a four-year harassment injunction in the circuit court against Flory. Flory appealed, presenting an adequately developed argument to this court that Kellerman failed to meet her burden at the injunction hearing to show that Flory committed acts to harass or intimidate Kellerman that served no legitimate purpose. See *Welytok v. Ziolkowski*, 2008 WI App 67, ¶23, 312 Wis. 2d 435, 752 N.W.2d 359 (describing the petitioner’s burden of proof to obtain an injunction). This court summarily reversed on the ground that “Kellerman ma[de] no attempt to refute Flory’s arguments,” offering only “conclusory and unsupported” assertions that “Flory’s allegations against her lacked merit” and that “Flory made them with the intent to harass Kellerman.” *Kellerman v. Flory*, No. 2024AP1430, unpublished op. and order (WI App June 26, 2025). As we explained, we deemed Kellerman’s failure to refute Flory’s arguments an implicit concession. *Id.* (citing *Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979)).

Flory moved for damages in the circuit court under WIS. STAT. § 895.044, which provides in part:

(1) A party or a party’s attorney may be liable for costs and fees under this section for commencing, using, or continuing an action, special proceeding, counterclaim, defense, cross complaint, or appeal to which any of the following applies:

(a) The action, special proceeding, counterclaim, defense, cross complaint, or appeal was commenced, used, or continued in bad faith, solely for purposes of harassing or maliciously injuring another.

(b) The party or the party’s attorney knew, or should have known, that the action, special proceeding, counterclaim, defense, cross complaint, or appeal was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification, or reversal of existing law.

The circuit court noted that this court’s opinion expressed no conclusion that Kellerman had pursued the harassment injunction in bad faith or solely for the purpose of harassing or intimidating Flory. In addition, the circuit court was “unable to find any clear and convincing evidence as required by [the statute] ... that the above-entitled matter was commenced, or continued in bad faith, by the petitioner solely for the purpose of harassing o[r] intimidating the respondent.” *See* WIS. STAT. § 895.044(2). The court therefore denied Flory’s motion. Flory appeals.

In reviewing a decision on whether to grant damages under WIS. STAT. § 895.044, we apply a mixed standard of review. *See Stern v. Thompson & Coates, Ltd.*, 185 Wis. 2d 220, 236, 517 N.W.2d 658 (1994). We rely on the circuit court’s findings of fact “unless they are against the great weight and clear preponderance of the evidence.” *See id.* Whether certain facts “fulfill the legal standard” under the statute is a question of law we review independently. *See id.*

Flory makes many assertions and accusations in her brief. However, she does not develop a supported argument that she presented the circuit court with record evidence establishing that Kellerman commenced or continued litigation in bad faith solely for the purpose of harassing or intimidating her. She instead appears to rely on our prior summary order.

Flory misunderstands the nature of that order. She suggests that she prevailed on the merits of the underlying case or that this court endorsed her version of the events and motivations of the parties. In fact, this court reversed on the basis that Kellerman effectively conceded on appeal that the evidence presented at the hearing in the circuit court was insufficient to support the order for a harassment injunction. A concession that the evidence presented was

insufficient to support an injunction is not a concession that the petition was filed for purposes of harassment or malicious injury, and this court made no such determination.

Because Flory has not met her burden to demonstrate that the circuit court erred in denying damages under WIS. STAT. § 895.044, we affirm.

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*