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DISTRICT III

September 15, 2026

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

2024AP1395

William A. Pangman v. Benjamin David LaFrombois
(L. C. No. 2023CV717)

Before Stark, P.J., Hruz, and Gill, 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 A. Pangman appeals a circuit court order denying his motion to reopen or reconsider an order dismissing his complaint against Benjamin David LaFrombois and Manning Gross + Massenburg, LLP (MG+M) with prejudice. Pangman argues that the court made several errors prior to the denial of this motion. 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 We have previously explained that, due to Pangman's failure to timely

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

appeal the final order dismissing his complaint with prejudice, our appellate jurisdiction is limited. We now conclude that Pangman has not developed any argument that falls within our limited appellate jurisdiction. Accordingly, we summarily affirm.

On July 13, 2023, Pangman filed a complaint against LaFrombois and MG+M alleging several claims, including defamation, intentional interference with prospective economic advantage, promissory estoppel, and fraud. According to the allegations in the complaint, Pangman is a retired attorney who serves as a consultant for various business ventures. LaFrombois, an attorney employed by MG+M, expressed interest in helping to finance one of the companies that Pangman was assisting, but he then began to undermine Pangman in order to appropriate the deal for himself.

MG+M was served on July 20, 2023, and it filed an answer to the complaint on August 30, 2023. LaFrombois was personally served on August 14, 2023, and he filed a motion to dismiss the complaint on September 27, 2023. In the motion to dismiss, LaFrombois argued, among other things, that Pangman's complaint failed to state a claim upon which relief could be granted. LaFrombois' motion sought dismissal with prejudice of the entire complaint.

While LaFrombois' motion to dismiss was pending, Pangman filed a motion for default judgment against LaFrombois. Pangman argued that LaFrombois was required to respond to the complaint no later than September 25, 2023, and he was therefore in default. LaFrombois opposed this motion as frivolous, arguing that he had filed his motion to dismiss within 45 days of service, as required by the summons and WIS. STAT. § 801.09(2)(a)3. On October 12, 2023, the circuit court set a briefing schedule on the motion to dismiss and the motion for default judgment, and it set December 4, 2023, as its planned date for rendering an oral decision.

On November 22, 2023, Pangman filed his opposition to the motion to dismiss, as well as a motion to strike portions of LaFrombois’ brief and a reply brief in support of his motion for default judgment. In the reply brief, Pangman did not address LaFrombois’ argument that the motion to dismiss was timely. Instead, Pangman explained that he had filed the motion for default judgment before LaFrombois’ motion to dismiss had been uploaded to the circuit court’s electronic filing system.

On December 13, 2023, the circuit court signed a decision and order denying Pangman’s motion for default judgment, partially granting Pangman’s motion to strike, and granting LaFrombois’ motion to dismiss.² Regarding the motion for default judgment, the court concluded that Pangman had conceded that LaFrombois was not in default. Regarding the motion to dismiss, the court determined that Pangman had “failed to state a claim against LaFrombois because each alleged cause of action is either missing facts necessary to state the claim or is legally defective.” On January 11, 2024, the court declined Pangman’s proposed order for entry of default judgment, stating, “The Court issued a decision and order in this matter on December 13, 2023. That is the order of the Court and this default judgment is denied given the Court’s decision.”

On February 2, 2024, LaFrombois filed a motion asking “that the above-entitled action, together with all claims and causes of action set forth in the complaint, be fully dismissed on the merits and with prejudice.” On February 5, 2024, the circuit court entered a final order

² This order was entered on December 14, 2023, but we follow the lead of the parties and the circuit court in referring to it as the December 13 order.

dismissing Pangman's complaint with prejudice. On February 7, 2024, MG+M and LaFrombois served a notice of entry of this final order on Pangman.

On February 27, 2024, Pangman filed a motion to "modify, vacate or set aside and/or reconsider ex parte orders entered subsequent to the [circuit] court's December 13, 2023 decision." (Formatting altered.) Pangman contended that LaFrombois served the February 2, 2024 motion on Pangman by mail on February 5, 2024, and therefore Pangman did not have an opportunity to respond before the court entered its order dismissing the complaint with prejudice. Pangman further argued that the court erred by declining his proposed order for entry of default judgment sua sponte, without a hearing and without notifying him by mail.

The record does not reflect any further case activity until June 27, 2024, when Pangman sent the circuit court proposed orders alternatively denying and granting his February 27 motion. On July 11, 2024, before the court had taken any action on his February 27 motion, Pangman filed a notice of appeal of the February 5 order. In that notice, Pangman stated that his "appeal includes the issues raised in" the February 27 motion, which "may now be considered denied as the court has not signed a timely order deciding Plaintiff's Motion." On the same date, Pangman also hand-delivered a letter to the court, requesting that the court "effectuate a decision ruling on Plaintiff's pending Motion filed on February 27, 2024," or set the matter for a hearing. (Formatting altered.)

On July 16, 2024, the circuit court entered an order denying Pangman's February 27 motion. The court also declined Pangman's proposed orders, stating, "The Court has issued [its] own Order denying the Motion to Vacate. This proposed order is not approved." Pangman filed an amended notice of appeal, adding the court's July 16 order to his original notice of appeal.

On October 25, 2024, we directed the parties to file jurisdictional memoranda addressing the scope of our appellate jurisdiction. After reviewing the parties' arguments, we concluded that we had jurisdiction to review the circuit court's July 16 denial of Pangman's February 27 motion to the extent that Pangman was seeking relief from judgment under WIS. STAT. § 806.07.

To the extent that Pangman's February 27 motion sought reconsideration of the circuit court's February 5 order, we concluded that we lacked jurisdiction to review the court's February 5 order dismissing the complaint with prejudice because Pangman did not file a timely appeal as required by WIS. STAT. § 808.04(1). We further explained that we lacked jurisdiction to review "an order denying a motion for reconsideration that presents the same issues as those determined in the order sought to be reconsidered." See *Silverton Enters., Inc. v. General Cas. Co.*, 143 Wis. 2d 661, 665, 422 N.W.2d 154 (Ct. App. 1988). We left open the possibility that we had jurisdiction to review new issues raised in Pangman's February 27 motion. We therefore instructed the parties to brief issues relating to Pangman's motion for reconsideration and to address any issues relating to our jurisdiction as part of their briefing.

"To prevail on a motion for reconsideration, the movant must present either newly discovered evidence or establish a manifest error of law or fact." *Koepsell's Olde Popcorn Wagons, Inc. v. Koepsell's Festival Popcorn Wagons, Ltd.*, 2004 WI App 129, ¶44, 275 Wis. 2d 397, 685 N.W.2d 853. Pangman does not address this standard, much less develop any argument that his February 27 motion satisfied this standard. Pangman also makes no effort to identify any new issues raised in his February 27 motion for reconsideration.

As far as we can tell, the only reference to the February 27 motion in Pangman's brief-in-chief relates to his argument that the circuit court incorrectly concluded that Pangman

had conceded that LaFrombois’ motion to dismiss was timely filed. Pangman contends that he merely agreed to “suspend” his motion for default judgment, but he requested the opportunity to submit supplemental briefs as part of his reply brief filed on November 22, 2023, and then “reiterated his request” as part of his February 27 motion. Because Pangman could have sought review of this issue by timely appealing the February 5 order of dismissal, we lack jurisdiction to consider this argument. See *Silverton Enters., Inc.*, 143 Wis. 2d at 665.

Pangman also argues that the circuit court erred when it declined his proposed order regarding the default judgment on January 11, 2024, without conducting a hearing or giving Pangman notice by mail. Pangman contends that he was not aware that the court declined this order until late February of 2024. This argument goes nowhere, however, because the circuit court had already denied Pangman’s motion for a default judgment as part of its December 13, 2023 decision, which was subsequently confirmed by the final order dismissing Pangman’s complaint on February 5, 2024. Because Pangman did not timely appeal the February 5 order, we do not have jurisdiction to revisit the correctness of the court’s December 13 denial of Pangman’s motion for default judgment.

For these reasons, we conclude that Pangman has not met his burden of demonstrating that the circuit court erred by denying his motion for reconsideration. See *Gaethke v. Pozder*, 2017 WI App 38, ¶36, 376 Wis. 2d 448, 899 N.W.2d 381 (“[O]n appeal[,], ‘it is the burden of the appellant to demonstrate that the [circuit] court erred.’” (third alteration in original; citation omitted)). We therefore affirm the circuit court’s decision to deny reconsideration.

We now address whether the circuit court erroneously exercised its discretion by denying Pangman relief under WIS. STAT. § 806.07.³ In his brief-in-chief, Pangman argues that he is entitled to relief because the court’s February 5 order dismissing his complaint with prejudice is void under § 806.07(1)(d). “An order is not ‘void’ under ... § 806.07(1)(d) unless the court rendering it lacked subject matter or personal jurisdiction or denied a party due process.” *Dustardy H. v. Bethany H.*, 2011 WI App 2, ¶15, 331 Wis. 2d 158, 794 N.W.2d 230 (2010).

Pangman makes two sets of arguments that the February 5, 2024 order for dismissal is void. First, he contends that he was denied due process because he did not receive notice or an opportunity to be heard before the circuit court dismissed his complaint with prejudice. Second, he contends that the court converted LaFrombois’ motion to dismiss into a motion for summary judgment without providing Pangman with the required notice and opportunity to be heard.

At the outset, we note that Pangman does not make any effort to satisfy his burden of demonstrating that he made either argument for relief under WIS. STAT. § 806.07 as part of his February 27, 2024 motion. We could reject both sets of arguments for that reason alone. See *State v. McMorris*, 2007 WI App 231, ¶30, 306 Wis. 2d 79, 742 N.W.2d 322 (stating that this court “may choose not to consider ... arguments that lack proper citations to the record”). Here, however, because MG+M and LaFrombois have responded to both sets of arguments,⁴ we exercise our discretion to consider them.

³ We see no argument in Pangman’s appellate briefs that he is entitled to relief under WIS. STAT. § 806.07 on any issue relating to his motion for default judgment.

⁴ MG+M’s attorney is also representing LaFrombois in this appeal and has filed one appellate brief on behalf of both parties. When referring to these appellate arguments, we refer to the defendants-respondents collectively as “MG+M.”

The circuit court denied Pangman’s February 27, 2024 motion because it found that there were “no grounds to reopen or reconsider the Court’s Decision of December 13, 2023 or the Order dated February 5, 2024, confirming dismissal of the Complaint.” “[T]he circuit court’s denial of a motion to vacate under WIS. STAT. § 806.07 is a discretionary determination 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. “The circuit court erroneously exercises its discretion when it applies the wrong legal standard or if the facts of record fail to support the circuit court’s decision.” *Id.*

Pangman’s brief-in-chief does not develop any argument that the circuit court erroneously exercised its discretion by denying his motion under WIS. STAT. § 806.07. In his reply brief, Pangman argues for the first time that the circuit court erroneously exercised its discretion by failing to examine any facts, apply any legal standards, or offer any reasoning process. See **Werner**, 331 Wis. 2d 511, ¶59. We typically do not consider arguments raised for the first time in a reply brief. See **A.O. Smith Corp. v. Allstate Ins.**, 222 Wis. 2d 475, 492, 588 N.W.2d 285 (Ct. App. 1998).

Moreover, nothing in Pangman’s appellate briefs persuades us that the circuit court applied the wrong legal standard to the record facts. Pangman argues that the February 5, 2024 order of dismissal with prejudice was an improper ex parte order. See **Haselow v. Gauthier**, 212 Wis. 2d 580, 590, 569 N.W.2d 97 (Ct. App. 1997) (explaining that “a motion to dismiss with prejudice cannot be heard ex parte”). He further contends that the court was required to give him notice and an opportunity to be heard prior to entering the February 5 order. See **William B. Tanner Co. v. Estate of Fessler**, 100 Wis. 2d 437, 447, 302 N.W.2d 414 (1981) (“[W]hen the rights or interests of a person are sought to be affected by judicial decree, due process requires

that the individual be given notice reasonably calculated to inform the person of the pending proceeding and to afford him ... an opportunity to object and defend his ... rights.”), *abrogated on other grounds by Sears, Roebuck & Co. v. Plath*, 161 Wis. 2d 587, 596-98, 468 N.W.2d 689 (1991).

We reject these arguments because, in denying Pangman’s February 27, 2024 motion, the circuit court stated that its February 5 order “confirm[ed] dismissal of the Complaint” as set forth in its December 13, 2023 decision granting LaFrombois’ motion to dismiss. LaFrombois’ motion to dismiss clearly sought dismissal of the entire complaint with prejudice, so Pangman had an opportunity to make any objections to dismissal with prejudice when he filed his brief in opposition to the motion to dismiss. Thus, Pangman had notice of the motion to dismiss and the opportunity to be heard prior to the December 13 decision granting LaFrombois’ motion to dismiss.

Pangman argues that the circuit court’s February 5, 2024 order dismissing the entire complaint with prejudice represented a substantive change from its December 13, 2023 decision and order granting LaFrombois’ motion to dismiss. MG+M disputes this characterization, arguing that the February 5 order was a mere formality because the December 13 decision did not contain any language regarding finality. See *Wambolt v. West Bend Mut. Ins.*, 2007 WI 35, ¶50, 299 Wis 2d 723, 728 N.W.2d 670 (requiring a final order to contain “a statement on the face of [the] document [stating] that it is final for the purpose of appeal”). Based on the circuit court’s statement that its February 5 order “confirm[ed] dismissal of the Complaint” as set forth in the December 13 decision, we agree with MG+M that the circuit court entered the February 5 order in order to formalize its December 13 decision granting LaFrombois’ motion to dismiss. In doing so, the court gave Pangman the required notice that he could appeal the dismissal with

prejudice. *See id.* We have previously determined that, because Pangman failed to file a timely notice of appeal, we lack jurisdiction to review the correctness of the court’s February 5 order confirming the December 13 decision.

Pangman contends that, even though LaFrombois’ motion to dismiss sought dismissal of the entire complaint with prejudice, LaFrombois did not “advance[] any legal argument or authority ... to explain why a dismissal ‘with prejudice’ would have been appropriate.” Pangman does not address MG+M’s argument that the time to make this objection was during briefing on LaFrombois’ motion to dismiss, nor does Pangman develop any argument to persuade us that the circuit court erred by finding that Pangman’s belated objection was not grounds for relief under WIS. STAT. § 806.07.

Pangman also argues that the circuit court was required to conduct a hearing before dismissing his complaint with prejudice, instead of relying on the parties’ written briefs.⁵ Pangman contends that “[d]ue process requires an evidentiary hearing to be available to a party to entertain the basis for motions on both substantive and jurisdictional grounds.” The only Wisconsin authority cited by Pangman for this proposition relates to “issues of fact ... raised by an objection to the court’s jurisdiction over the person.” *See Kavanaugh Rest. Supply, Inc. v. M.C.M. Stainless Fabricating, Inc.*, 2006 WI App 236, ¶8, 297 Wis. 2d 532, 724 N.W.2d 893

⁵ Pangman contends that the circuit court set the matter for a hearing on December 14, 2023, but then canceled the hearing and issued a written decision instead. The record does not support this assertion. Instead, the October 12, 2023 briefing schedule stated that the circuit court would render an oral decision on December 4, 2023, at 8:30 a.m., and it permitted the parties to appear remotely. In a letter to the court dated August 15, 2024, Pangman contended that the court changed the date to December 14 in order to accommodate Pangman’s travel plans. As far as we can tell, nothing else in the record addresses the court’s initial plan to deliver an oral decision, nor is there any record support for Pangman’s contention that the court ever scheduled a hearing on the pending motions.

(quoting WIS. STAT. § 801.08(1)). That authority is inapplicable here because “[a] motion to dismiss for failure to state a claim tests the legal sufficiency of the complaint.” See **Data Key Partners v. Permira Advisers LLC**, 2014 WI 86, ¶19, 356 Wis.2d 665, 849 N.W.2d 693 (citation omitted).

Pangman also cites **Goldberg v. Kelly**, 397 U.S. 254, 267 (1970), for the broader proposition that due process requires “the opportunity to be heard ... at a meaningful time and in a meaningful manner.” (Citations omitted.) Here, the circuit court set a briefing schedule for the motion to dismiss, as well as a date to render an oral decision based on that briefing. Pangman does not develop any argument that this briefing schedule was inadequate under **Goldberg**, nor does he respond to MG+M’s contention that Pangman did not object to the court’s plan to render an oral decision following the submission of briefs.

In short, we see no developed argument from Pangman that the circuit court was required to conduct a hearing prior to granting the motion to dismiss, particularly when no party objected to the court’s plan to decide the motion based on the parties’ briefs. Accordingly, Pangman has failed to establish that the court’s decision to grant LaFrombois’ motion to dismiss is grounds for relief under WIS. STAT. § 806.07.

Turning to Pangman’s second argument that the judgment is void under WIS. STAT. § 806.07(1)(d), Pangman contends that the circuit court’s decision granting LaFrombois’ motion to dismiss is “tantamount to an order for summary judgment.” Because the court did not follow the summary judgment procedures set forth in WIS. STAT. § 802.08, Pangman contends that the court’s order of dismissal is void. See **Larry v. Harris**, 2008 WI 81, ¶44, 311 Wis. 2d 326, 752 N.W.2d 279 (“[I]n granting summary judgment, circuit courts must adhere to either the

procedural requirements of ... § 802.08(2), for 20 days prior notice, or of a scheduling order specifying a shorter time period within which summary judgment may be granted.”).

We reject the premise of this argument because the circuit court’s February 5, 2024 order confirmed its December 13, 2023 determination that Pangman’s complaint failed to state a claim upon which relief could be granted. There was no grant of summary judgment. As we explained in our February 19, 2025 order, we lack appellate jurisdiction to review the correctness of that order.

For the foregoing reasons, we conclude that Pangman has not demonstrated that the circuit court erred when it determined that Pangman’s February 27, 2024 motion did not present any grounds for relief under WIS. STAT. § 806.07 or that the circuit court otherwise erred by denying Pangman’s motion for reconsideration of its February 5, 2024 order.

Therefore,

IT IS ORDERED that the order is summarily affirmed. 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