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DISTRICT II

October 22, 2025

To:

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Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
Ozaukee County Justice Center
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Howard E. Leventhal #174956
Ozaukee County Jail
1201 S. Spring Street
Port Washington, WI 53074

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

2023AP880

Howard E. Leventhal v. Excel Tool & Die, Inc.
(L.C. # 2022CV142)

Before Neubauer, P.J., Gundrum and Grogan, 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).

Howard E. Leventhal, pro se, appeals a final order dismissing his claims against the various respondents. Although Leventhal asserts he is raising four issues on appeal, those issues all reduce to the simple question of whether the circuit court validly awarded the respondents their reasonable attorney fees and costs as a result of the court's finding that Leventhal had commenced and continued the litigation frivolously. 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 affirm the order. In addition, we grant the respondents' motion to conclude this appeal is frivolous and remand to the circuit court to assess costs, fees, and reasonable attorney fees against Leventhal.

Leventhal filed a wide-ranging complaint asserting claims against his former relatives, their business, and various circuit court staff in Ozaukee County. As relief for the asserted nine causes of action, Leventhal sought injunctive relief and money damages totaling \$250 million. Several judges recused themselves, and the matter was ultimately assigned to the Hon. Christopher R. Foley in Milwaukee County.

The circuit court granted the respondents' motion to dismiss, among other things finding the lawsuit frivolous. Indeed, the court determined that "frivolous," though the correct legal term for the filing, did not "capture the invidious and evil intent of this litigation and Mr. Leventhal's incessant filing of meritless cases concerning [his ex-wife], his daughter, their relatives and those vested with the near impossible task of controlling his vexatious conduct." The court determined sanctions were appropriate for the frivolous litigation and set the matter for further proceedings on that issue.

The respondents were reluctant to provide attorney fee documentation that identified the individuals who performed the legal work, based on a fear that they too would become targets for Leventhal's harassing conduct. The circuit court expressed an inclination to sustain

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

Leventhal’s objections to the attorney fee documentation on the basis that the submissions were incomplete.

But after Leventhal emailed opposing counsel to say, “Go fuck yourselves,” the circuit court changed course. As sanctions for Leventhal’s “persistent, incessant, egregious and bad faith violations of the court order requiring him to comply with the Rules of Civility,”² the court prohibited Leventhal from contesting the reasonableness of the attorney fees and further allowed the late filing of the redacted costs and fees documentation.

Nonetheless, the circuit court did not view the sanction as “relieving [it] of the responsibility to engage [in] an assessment of the affidavits and supporting documentation” for the attorney fee award under *Kolupar v. Wilde Pontiac Cadillac, Inc.*, 2004 WI 112, 275 Wis. 2d 1, 683 N.W.2d 58, and WIS. STAT. § 895.044. The court concluded the respondents were collectively entitled to over \$40,000 in litigation expenses as a result of the frivolous filing, and it imposed further restrictions on Leventhal’s ability to file actions in Wisconsin courts as a sanction for his conduct. Leventhal now appeals.

It is important to note what Leventhal does not challenge on appeal. He does not challenge the dismissal of his claims. He does not challenge the circuit court’s finding that his action was frivolous. And he does not contend that the filing restrictions imposed by the court were in error. Rather, his entire argument—such as we understand it—turns on whether his email telling opposing counsel, “Go fuck yourselves,” constituted sanctionable conduct.

² See SCR ch. 62.

We uphold the circuit court’s determination of an award of attorney fees unless the court erroneously exercised its discretion. *Kolupar*, 275 Wis. 2d 1, ¶22. Here, we are unpersuaded that the court erroneously exercised its discretion when it decided to accept further documentation from the respondents as a sanction for Leventhal’s uncivil conduct. Leventhal’s email to opposing counsel validated their concerns about openly providing detailed information about their billing practices, including the identities of the individuals who performed the work. Moreover, Leventhal had been previously warned that his continued incivility, including referring to actions by opposing counsel as “idiotic,” would subject him to sanctions. Leventhal’s brief fails to establish that his conduct in emailing obscenities to opposing counsel is beyond reproach. Moreover, Leventhal continues this conduct on appeal by referring to the respondents throughout his brief as “the Fraudsters.”

Leventhal’s brief, while seemingly attempting to raise other issues, fails to set forth any cognizable legal argument on those points. Among other assertions, his complaints of judicial bias, allegations regarding the unconstitutionality of various orders that are not at issue in this appeal, and assertions that the respondents are guilty of felonies are not developed themes reflecting any legal reasoning. See *State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992). We will not address these and other undeveloped arguments.

Based on the arguments presented, we conclude this appeal is frivolous. An appeal is frivolous if the party knew, or should have known, that the 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.” WIS. STAT. RULE 809.25(3)(c)2. Here, the only argument Leventhal even marginally developed was his assertion that the circuit court erred by accepting additional documentation from the respondents as a sanction for Leventhal’s uncivil

conduct. In support of that argument, Leventhal cited only a single case, *Chevron Chemical Co. v. Deloitte & Touche*, 176 Wis. 2d 935, 501 N.W.2d 15 (1993), which does not state, or even suggest, that a court lacks authority to regulate uncivil conduct by attorneys or parties during litigation.³ Leventhal knew or should have known that his 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.

Pursuant to this determination of frivolousness, we award the respondents their costs, fees, and reasonable attorney fees. *See* WIS. STAT. RULE 809.25(3)(a). We remand so that the circuit court may determine the appropriate amount the respondents are owed. *See Lucareli v. Vilas County*, 2000 WI App 157, ¶8, 238 Wis. 2d 84, 616 N.W.2d 153.

Based on the foregoing,

IT IS ORDERED that the order of the circuit court is summarily affirmed and the cause is remanded with directions. *See* WIS. STAT. RULE 809.21(1).

IT IS FURTHER ORDERED that the appeal is determined to be frivolous, and the respondents are awarded their costs, fees, and reasonable attorney fees in an amount to be determined by circuit court following remittitur.

³ Quite to the contrary, *Chevron Chemical Co. v. Deloitte & Touche*, 176 Wis. 2d 935, 501 N.W.2d 15 (1993), held that the defendant’s “repeated, flagrant, and intentional” litigation misconduct warranted the entry of judgment against the defendant as a sanction. *Id.* at 945.

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

Samuel A. Christensen
Clerk of Court of Appeals