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DISTRICT II

October 7, 2026

To:

Hon. J. Arthur Melvin III
Circuit Court Judge
Electronic Notice

Michael J. Ganzer
Electronic Notice

Monica Paz
Clerk of Circuit Court
Waukesha County Courthouse
Electronic Notice

Luke Hudock
Electronic Notice

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

2025AP2304

Pawan Kumar v. Rajesh Kumar (L.C. #2023CV188)

Before Lazar, P.J., Grogan, and LoCoco, 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).

Pawan Kumar and Madan Lal appeal a circuit court order of dismissal with prejudice for failure to join a “necessary party” under WIS. STAT. § 803.03(1)(b)2 (2023-24).¹ 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. For the following reasons, we reverse and remand the cause for further proceedings.

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

Pawan, Lal, and Respondent Rajesh Kumar jointly sought to develop a piece of Georgia real estate held by Respondent Durga Investments, LLC (“Durga”).² Rajesh, the controlling member of Durga, ultimately sold the property. The sale prompted a dispute between Pawan, Lal, and a non-party to this suit, Madan Popli, over who held the remaining interest in Durga; \$850,000 in sale proceeds were at stake.

In September 2021, Popli sued Rajesh and Durga in Georgia. Pawan and Lal, aware of the Georgia lawsuit, also sued Rajesh and Durga—but in Wisconsin, in 2023 (this action). The Georgia suit settled. In 2025, the circuit court below dismissed this action sua sponte on the grounds that Pawan and Lal had failed to join Popli, who the court saw as a necessary party to the litigation. See WIS. STAT. § 803.03(1)(b)(2). It explained that Pawan and Lal were “asking Durga and [Rajesh] to pay them what was already paid to the non-party, Madan Popli, for the same portion of the ownership interest in Durga.” The court concluded § 803.03(1)(b)(2) barred that request. Pawan and Lal appeal, arguing the court failed to conduct the analysis § 803.03(3) requires before dismissal for nonjoinder can occur. We agree.

WISCONSIN STAT. § 803.03 ensures that all parties “needed for just and complete adjudication” of a lawsuit are joined to the suit. Applying the statute involves a multi-part inquiry. *Dairyland Greyhound Park, Inc. v. McCallum*, 2002 WI App 259, ¶19, 258 Wis. 2d 210, 655 N.W.2d 474. First, a circuit court must determine whether a non-party is in fact a necessary party for any of several reasons set forth in § 803.03(1). The circuit court in this case did so. It observed that Popli, like Pawan and Lal, claimed an interest in Durga and that

² For clarity we refer to the Kumars by their first names.

resolution of this action in his absence might leave Rajesh “subject to a substantial risk of incurring double, multiple or otherwise inconsistent obligations by reason of [Popli’s] ... claimed interest.” Sec. 803.03(1)(b)2.

But simply identifying a necessary non-party does not, by itself, justify dismissal. The statute ordinarily requires the circuit court to “order that the person be made a party.” WIS. STAT. § 803.03(3); *see also* § 803.03(1) (necessary non-party “shall be joined as a party in the action”). Only when joinder is not feasible for some reason—when the non-party “cannot be made a party”—may the court then “determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed.” Sec. 803.03(3). The statute guides this determination with four factors the court must consider relating to prejudice, adequacy of a judgment in the non-party’s absence, and the presence of alternate remedies if the action is dismissed. Sec. 803.03(3)(a)–(d).

The circuit court did not conduct this part of the analysis. It did not explain why it was infeasible to order that Popli be joined as a party, nor did it assess whether—assuming joinder was indeed infeasible—dismissal was necessary and appropriate in light of the relevant statutory factors. While we may have authority to conduct some or all of this analysis *de novo* in appropriate cases, *see Dairyland Greyhound Park, Inc.*, 258 Wis. 2d 210, ¶¶10, 25, we decline to do so here given the undeveloped state of the Record and the possibility that additional findings of fact may be necessary. The circuit court will have the opportunity on remand, after hearing from the parties, to apply WIS. STAT. § 803.03 in full in the first instance.³

³ We express no opinion on the circuit court’s conclusion that Popli is a necessary party.

Therefore,

IT IS ORDERED that the order of the circuit court is summarily reversed and cause remanded for further proceedings. *See* 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