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DISTRICT III

October 13, 2026

To:

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Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
Outagamie County Courthouse
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Ezequiel Rivera
Electronic Notice

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

2025AP2674

Ezequiel Rivera v. Labor and Industry Review Commission
(L. C. No. 2025CV835)

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).

Ezequiel Rivera, pro se, appeals a circuit court order that affirmed an interlocutory order of the Labor and Industry Review Commission (LIRC). 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 explained below, we summarily affirm.

Rivera filed an application for worker's compensation benefits in September 2023, after injuring his knee while working for Nestle USA, Inc. The injury occurred on February 26, 2023,

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

during an incident with a coworker. Both Rivera and the coworker were terminated following the incident, with Rivera's termination occurring on March 3, 2023.

Rivera sought medical treatment for his knee injury, and in May 2023, he underwent an ACL repair surgery performed by Dr. Jonathan Dunker. Following the surgery, Rivera participated in physical therapy and was subject to work restrictions. In December 2023, Rivera again sought medical treatment, reporting that he had slipped on ice and landed on his right knee. After an MRI, Dunker diagnosed Rivera with a partial thickness re-tear of the ACL graft, an MCL sprain, and a contusion of the lateral femoral condyle. A second physician, Dr. Padraic Rory Obma, ultimately performed another surgery on Rivera's right knee in August 2024, which included an ACL reconstruction and partial meniscectomies to Rivera's medial meniscus and lateral meniscus.

After filing his initial application for worker's compensation benefits in September 2023, Rivera filed multiple amended applications. His final amended application, dated July 1, 2024, alleged that he was entitled to temporary total disability benefits from February 26, 2023, to "current," and it asserted claims for "refusal to hire" and "violation of work comp act."

In support of his worker's compensation claim, Rivera submitted medical opinions from Dunker and Obma. Nestle, in turn, submitted medical opinions from Dr. Stephen Barron, who performed independent medical evaluations (IMEs) of Rivera on February 2 and April 29, 2024. In his first IME report, Barron concluded that Rivera's "current diagnoses were not all causally related to the [workplace] injury" because "the December 2023 accident was unrelated to the work injury." In his second IME report, Barron opined that Rivera had reached an end of healing as of April 19, 2024; that no further medical treatment was necessary; and that Rivera

had no physical limitations from his workplace injury and needed no work restrictions. Barron initially opined that Rivera had sustained a 10% permanent partial disability, but he later submitted a supplemental IME report stating that Rivera had sustained a 15% permanent partial disability.

Based on Barron's opinions, Nestle conceded that Rivera had sustained a right knee injury arising out of the course of his employment that necessitated surgical repair, and it paid Rivera temporary total disability benefits from March 3, 2023, through April 29, 2024. Nestle also paid Rivera permanent partial disability benefits, as well as medical expenses through the spring of 2024.

A hearing on Rivera's worker's compensation claim took place before an administrative law judge (ALJ) on November 12, 2024. At the beginning of the hearing, the ALJ stated that the issues to be addressed were "the nature and extent of [Rivera's] disability, specifically whether he is entitled to temporary total disability from April 30th of 2024 up to and continuing past the date of the hearing today"; "[Nestle's] liability for medical expenses, including an August of 2024 surgery"; and "whether [Rivera] is entitled to an interlocutory order." The ALJ then opined that an interlocutory order would be appropriate because Rivera "has made penalty claims ... that will need an additional hearing date." Rivera agreed that the ALJ's summary was "an accurate and complete statement of the matters ... in dispute in this hearing," and he did not challenge the ALJ's statements that an interlocutory order would be appropriate and that Rivera's penalty claims would be addressed at a future hearing.

Following the November 12, 2024 hearing, the ALJ issued an interlocutory order finding that Rivera had "reached an end of healing for his workplace injury as of April 29, 2024, and no

longer had medical restrictions on his ability to work from that date.” The ALJ also found, however, that Nestle was liable for the cost of Rivera’s August 2024 ACL reconstruction surgery “and any resulting disability” because both the workplace injury and Rivera’s subsequent fall contributed to the need for that surgery. The ALJ therefore ordered Nestle to pay Rivera \$10,185.74 in temporary total disability benefits from August 15, 2024, through the date of the hearing, and he further ordered Nestle to “continue paying [Rivera] temporary total disability until he reaches an end of healing or otherwise becomes ineligible under the law.” The ALJ expressly stated that his order was left interlocutory to allow for further proceedings on several issues, namely: (1) whether Nestle was liable for the meniscectomies performed at the same time as Rivera’s August 2024 ACL surgery; (2) any future disputes regarding Nestle’s ongoing liability for Rivera’s temporary total disability benefits; (3) any future disputes regarding the amount of medical expenses that Nestle owed for the August 2024 surgery; and (4) Rivera’s penalty claims.

Rivera filed a petition with LIRC seeking review of the ALJ’s decision. On July 15, 2025, LIRC issued an interlocutory order reversing the ALJ’s decision in part. LIRC explained that “[t]he issue on appeal ... is whether [Rivera] is entitled to temporary total disability benefits from April 29 to August 15, 2024.” LIRC acknowledged that Rivera had raised “numerous” other issues and claims in his briefs, including claims pertaining to

Title VII, [the] Americans with Disabilities Act, ERISA, insurance fraud under Wis. STAT. § 943.395, RICO and racketeering violations, unlawful retaliation and pretextual termination under Wis. STAT. § 111.322, disparate treatment based on national origin/ethnicity, overtime discrimination under Wis. STAT. § 111.321, hostile work environment, common law violations of duty of care to employees, failure to report workplace assault to authorities, [and] spoliation of evidence.

LIRC stated, however, that those additional claims were “not relevant and not properly before” it.

In support of this conclusion, LIRC explained that “[p]rimary compensation and medical expenses were the only 2 issues noticed for the hearing” before the ALJ. Rivera “was successful in part on these issues because the [ALJ] found [Nestle] was liable for the August 15, 2024, surgery and subsequent temporary total disability payments,” and Rivera was unsuccessful “solely on the issue of whether he was entitled to temporary total disability benefits from April 29 to August 15, 2024.” LIRC further explained that the ALJ’s order “was left interlocutory for [Rivera] to be able [to] proceed on his other claims (e.g., wrongful refusal to rehire penalties and meniscectomies) and to resolve issues of medical expenses or any other issues. These issues would be decided after *other* hearings.”

With respect to the merits of the only issue properly before it, LIRC reversed the ALJ’s decision that Rivera was not entitled to temporary total disability benefits from April 29 to August 15, 2024. In doing so, LIRC explained that it found Obma’s opinion that Rivera had not reached an end of healing as of April 29, 2024 more credible than Barron’s contrary opinion. Rivera subsequently sought reconsideration of LIRC’s decision, which LIRC denied.

Rivera then sought judicial review of LIRC’s decision under WIS. STAT. § 102.23. More specifically, Rivera filed a summons with an attached brief, a petition for judicial review, two exhibit lists, and numerous “proposed” exhibits. In his filings, Rivera purported to raise issues that were not part of his appeal to LIRC, including “[e]motional distress or reputational harm under WIS. STAT. § 111.322 or common law”; “[p]unitive damages under [WIS. STAT.]

§ 895.043(6)”; “[i]njunctive relief under [WIS. STAT.] § 813.01”; “[d]eclaratory relief under [WIS. STAT.] § 806.04”; and “hostile work environment, fraud, obstruction, or conspiracy.”

Nestle and LIRC each filed an answer to Rivera’s petition for judicial review. Rivera then filed a motion “to deem allegations admitted” or, alternatively, to strike Nestle’s and LIRC’s answers, asserting that both answers were legally insufficient because they did not specifically deny each allegation in Rivera’s “incorporated thirty[-]one-page supporting brief, and attached exhibits.” (Formatting altered.) The circuit court denied Rivera’s motion, and it later denied his motion for reconsideration of that decision.

The circuit court ultimately affirmed LIRC’s interlocutory order in an oral ruling. The court found that LIRC’s order was “based on the factual findings that [LIRC] made, which are reasonable, as well as the law.” The court further stated, “I would note the other claims that Mr. Rivera is asking for are beyond the scope of [LIRC’s] review. So I will deny those claims. Those would be more appropriately solved in another venue.” The court subsequently entered a written order affirming LIRC’s order and dismissing Rivera’s petition for judicial review with prejudice, and Rivera now appeals.

On appeal from a circuit court’s decision on a petition for judicial review of a worker’s compensation order or award, “[w]e review LIRC’s factual findings and legal conclusions, not those of the circuit court.” *Anderson v. LIRC*, 2021 WI App 44, ¶10, 398 Wis. 2d 668, 963 N.W.2d 89. The scope of our review “is circumscribed by WIS. STAT. § 102.23(1)(e), under which a worker’s compensation order or award may be overturned only if LIRC acted without authority, the order or award was procured by fraud, or if LIRC’s findings of fact do not support the order or award.” *Id.*

On appeal, Rivera argues that LIRC “acted without or in excess of its powers by refusing to adjudicate preserved [WIS. STAT. ch.] 102 statutory remedies and limiting its decision solely to temporary total disability, despite those remedies being within its statutory authority.” See WIS. STAT. § 102.23(1)(e)1. Relatedly, Rivera asserts that LIRC “has not awarded the bad faith and other penalties the employer and insurers committed.” (Formatting altered.)

LIRC correctly determined, however, that the only issue properly before it was Rivera’s entitlement “to temporary total disability benefits from April 29 to August 15, 2024.” During the hearing before the ALJ, Rivera agreed with the ALJ’s summary of the limited issues to be decided at the hearing, and he did not challenge the ALJ’s statements that an interlocutory order would be appropriate and that Rivera’s penalty claims would be addressed at a future hearing. As such, the ALJ issued an interlocutory order that addressed only Rivera’s entitlement to medical expenses and temporary total disability benefits. The ALJ’s order specifically stated that it was “left interlocutory to allow [Rivera] to proceed on his [pled] penalty claims,” and the ALJ reserved jurisdiction “for such further findings, Orders, and awards as may be warranted in the future so long as they are not inconsistent with the findings in this Order.” Because the ALJ’s interlocutory order did not adjudicate Rivera’s penalty claims—which was an outcome that Rivera himself agreed to during the hearing before the ALJ—LIRC correctly determined that any arguments related to the penalty claims were not properly before it on review of the ALJ’s interlocutory order.

Rivera also asserts that LIRC’s order “was procured by fraud.” See WIS. STAT. § 102.23(1)(e)2. In support of this assertion, he contends that “[t]he appendix identified record-tainting misconduct—including destruction of surveillance footage and handwritten reports, falsified injury/wage information, and concealment/obstruction of evidence.” As factual

support for this contention, Rivera provides a single citation to his own brief's appendix. However, the Rules of Appellate Procedure require references to the appellate record, *see* WIS. STAT. RULE 809.19(1)(d)-(e), and an appendix "is not the record," *see Ripp Distrib. Co. v. Ruby Distrib. LLC*, 2024 WI App 24, ¶16 n.7, 411 Wis. 2d 630, 5 N.W.3d 930. This court need not consider arguments that are unsupported by citations to the record. *See Tam v. Luk*, 154 Wis. 2d 282, 291 n.5, 453 N.W.2d 158 (Ct. App. 1990). Regardless, the cited page from Rivera's appendix—which is simply a page from a brief that Rivera filed in the circuit court—provides no factual support for Rivera's assertion that LIRC's order was procured by fraud. As LIRC aptly notes, "This single page of [Rivera's] brief is not evidence that LIRC's decision was procured by fraud; it is just his argument."

Rivera further contends that LIRC's findings of fact do not support its order. *See* WIS. STAT. § 102.23(1)(e)3. This argument, however, is undeveloped. Rivera does not explain how LIRC's findings fail to support its order reversing in part the ALJ's decision that Rivera was not entitled to temporary total disability benefits from April 29 to August 15, 2024. Furthermore, Rivera does not acknowledge that LIRC's decision in that regard was actually favorable to him, in that LIRC determined that he was, in fact, entitled to temporary total disability benefits during the specified time period. This court need not address undeveloped arguments, and we decline to do so here. *See State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992).

All of Rivera's remaining appellate arguments pertain to alleged errors by the circuit court, not LIRC. As noted above, however, on appeal, we review LIRC's factual findings and legal conclusions, not those of the circuit court. *See Anderson*, 398 Wis. 2d 668, ¶10. Thus, to the extent Rivera contends that the circuit court erred by failing to apply "the exclusive judicial-review grounds under WIS. STAT. § 102.23(1)(e)" and by "failing to

apply ... § 102.23(6) ... and failing to identify what material facts it reviewed under that standard,” we need not address those arguments.² (Formatting altered.)

Rivera’s other challenges to the circuit court’s decision lack merit. Rivera contends that the court erred by dismissing his petition for judicial review with prejudice “without deciding the preserved issues Rivera raised.” (Formatting altered.) Rivera appears to believe that the court’s dismissal with prejudice will prevent him from further pursuing his remaining claims that were not addressed by the ALJ or LIRC. That belief, however, is incorrect. As already noted, the ALJ specifically stated that his order was left interlocutory to allow Rivera to proceed on his remaining claims—including his penalty claims. LIRC similarly entered an interlocutory order, in which it recognized that Rivera had outstanding claims that were not addressed by the ALJ’s interlocutory order and that would “be decided after *other* hearings.” Consequently, LIRC’s order addressed only a single issue—i.e., Rivera’s entitlement to temporary total disability benefits from April 29 to August 15, 2024. As a result, the court’s order dismissing Rivera’s petition for judicial review with prejudice was similarly limited to that single issue and does not affect Rivera’s ability to pursue his remaining, unadjudicated claims in future administrative proceedings.

In a similar vein, Rivera asserts that the circuit court erred by stating, in its oral ruling, that it was “deny[ing]” Rivera’s claims that were beyond the scope of LIRC’s review. Rivera

² In a related argument, Rivera contends that ***Knight v. LIRC***, 220 Wis. 2d 137, 582 N.W.2d 448 (Ct. App. 1998), “compels reversal because the circuit court did not perform the [WIS. STAT. §] 102.23 judicial-review function.” (Formatting altered.) Again, though, our appellate review is limited to LIRC’s factual findings and legal conclusions, not those of the circuit court. See ***Anderson v. LIRC***, 2021 WI App 44, ¶10, 398 Wis. 2d 668, 963 N.W.2d 89. Regardless, we agree with LIRC that ***Knight***, which involved a claim for discrimination under the Wisconsin Fair Employment Act and did not address § 102.23, is inapplicable to this case. See ***Knight***, 220 Wis. 2d at 143.

contends that if those claims were beyond the scope of LIRC’s—and the court’s—review, then the court “could not dispose of them on the merits.” We do not, however, view the court’s statement that it was “deny[ing]” Rivera’s remaining claims as an adjudication of those claims on the merits. Rather, the court was simply acknowledging that it could not grant Rivera relief on those claims because they were not addressed by LIRC’s order and were therefore outside the scope of the court’s review. Again, nothing in the court’s oral ruling or written order prevents Rivera from pursuing his remaining, unadjudicated claims in additional administrative proceedings.

Rivera also contends that the circuit court erred by denying his motion to deem the allegations in his pleadings admitted. According to Rivera, by denying that motion, the court failed “to apply Wisconsin circuit-court procedural rules.” (Formatting altered.) Relatedly, Rivera argues that LIRC and Nestle “waive[d] or forfeit[ed] opposition to [his] briefed arguments by filing answers that ignored the brief served with the petition [for judicial review]” and that the court erred by “failing to address or enforce waiver/forfeiture consequences.”

These arguments fail because the relevant statutes show that LIRC and Nestle were not required to file answers that responded to all of the allegations contained in the brief attached to Rivera’s summons. Any party aggrieved by an order or award of LIRC “may commence an action in [the] circuit court for review of the order or award by serving a complaint as provided in par. (b) and filing the summons and complaint with the clerk of the circuit court.” WIS. STAT. § 102.23(1)(a)2. “In such an action a complaint shall be served with an authenticated copy of the summons” and “shall state the grounds upon which a review is sought.” Sec. 102.23(1)(b). LIRC “shall serve its answer *to the complaint* within 20 days after the service of the complaint,” and “any other defendant may serve an answer *to the complaint* within 20 days after the service

of the complaint.” Sec. 102.23(1)(c) (emphasis added). These statutes do not contemplate that a party seeking judicial review will file a brief along with that party’s summons and complaint, nor do they require an opposing party’s answer to address any allegations contained in such a brief.

Here, the record shows that both LIRC and Nestle filed answers that complied with WIS. STAT. § 102.23(1)(c). Rivera’s complaint—i.e., his petition for judicial review—contained eight numbered paragraphs. Both LIRC’s answer and Nestle’s answer responded to each of those allegations. We therefore reject Rivera’s arguments regarding the circuit court’s denial of his motion to deem the allegations in his pleadings admitted, the court’s alleged failure to follow procedural rules, and any alleged forfeiture or waiver by LIRC and Nestle.

Finally, Rivera asserts that the circuit court denied him “[p]rocedural fairness” or “due process” by “entering a final merits disposition and with-prejudice dismissal at a hearing where Rivera did not appear.” (Formatting altered.) It is well established that due process “requires notice and the opportunity to be heard.” *Laatsch v. Derzon*, 2018 WI App 10, ¶42, 380 Wis. 2d 108, 908 N.W.2d 471. In this case, Rivera does not assert that he lacked notice of the hearing at which the court issued its oral ruling, nor does he assert that he was not given the opportunity to

be heard on his petition for judicial review.³ Rivera's due process argument is therefore undeveloped, and we decline to address it further.⁴ See **Pettit**, 171 Wis. 2d at 646-47.

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

³ Indeed, the record belies any claim that Rivera was denied the opportunity to be heard on his petition for judicial review. Rivera submitted briefs to the circuit court in support of his petition, and the transcript of the relevant hearing suggests that, had Rivera appeared at the hearing, the court would have allowed him to make oral arguments in support of the petition.

⁴ We have attempted to address each of Rivera's appellate arguments as best we can discern them. To the extent that Rivera intended to raise other arguments that are not separately addressed in this summary disposition order, we reject them as undeveloped. See **State v. Pettit**, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992).