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DISTRICT II

November 18, 2026

To:

Hon. Natasha L. Torry
Circuit Court Judge
Electronic Notice

Chris Koenig
Clerk of Circuit Court
Sheboygan County Courthouse
Electronic Notice

Ryan Joseph Truesdale
Electronic Notice

Brenda Gierach-Woodas
Electronic Notice

Andrew Woodas
141 Huson Ct.
Plymouth, WI 53073

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

2025AP2775 Brenda Gierach-Woodas v. City of Plymouth (L.C. #2025CV546)

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).

Brenda Gierach-Woodas and Andrew Woodas appeal pro se from an order dismissing with prejudice their lawsuit against the City of Plymouth related to personal injuries sustained related to a dog bite. 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.

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

In August 2025, the Woodases filed suit against the City alleging negligence in "Recordkeeping Duties" and loss of consortium when a neighbor's dog bit off the tip of Andrew's thumb. The negligence cause of action alleged the City failed "to create and maintain accurate complaint/incident and disposition records" noting the same dog had previously bit its owner's arm eight months earlier. The Woodases' Complaint alleged a second cause of action—Brenda's loss of consortium derivative claim.

The City filed a motion to dismiss for failure to state a claim, citing multiple reasons: (1) the Woodases did not have a private right of action to sue the City for these injuries; (2) the City is not a proper party as it has no duty under any ordinance to document a dog bite; (3) the City has governmental immunity pursuant to WIS. STAT. § 893.80(4); and (4) the Woodases failed to "plead a causal nexus between documentation of a dog bite and the alleged damages." The Woodases filed a response opposing the motion, contending the City's ordinances establish a mandatory duty "to record and document complaints, incidents, and dispositions," and "[c]ausation is plausible" given the same dog bite that occurred earlier and the lack of documentation by the City.

After holding a hearing on the motion, during which Brenda told the circuit court she did not sue the owner of the dog because the owner was "a tenant and does not have any insurance[,]" the court granted the City's motion to dismiss ruling there was "no private right of

action" to bring this lawsuit.[2] The circuit court dismissed the Woodases' Complaint with prejudice. The Woodases now appeal.

On appeal, the Woodases allege: (1) the circuit court's dismissal based on no private cause of action "applied the wrong legal framework"; (2) their amended complaint "stated a viable negligence claim sufficient to survive a motion to dismiss"; (3) their Complaint "plausibly alleged recognized exceptions to governmental immunity"; (4) "[t]he circuit court failed to evaluate the operative amended complaint"; and (5) the circuit court's "dismissal *with prejudice* was improper."

In response, the City argues: (1) the amended complaint is irrelevant because it was filed after the circuit court dismissed the lawsuit; (2) the Woodases' Complaint fails to allege a viable private right of action; (3) the City is not a proper party; (4) the City is immune from suit under WIS. STAT. § 893.80(4); (5) the Woodases' allegation that the City failed to document an incident did not cause the Woodases' injuries; (6) the City did not have authority to kill the dog after the first bite; (7) the loss of consortium claim is derivative and therefore cannot survive dismissal of the negligence claim; and (8) the circuit court did not erroneously exercise its discretion in making the dismissal order *with prejudice*.

In reviewing a motion to dismiss, "we accept as true all facts well-pleaded in the complaint and the reasonable inferences therefrom." ***Data Key Partners v. Permira Advisers LLC***, 2014 WI 86, ¶¶18-19, 356 Wis. 2d 665, 849 N.W.2d 693. We do not accept "legal

[2] The Woodases' attempt to amend the Complaint was ineffective. They filed an amended complaint the day after the circuit court had already dismissed the original Complaint. A party cannot amend a pleading that no longer exists. *See generally* ***Lowell Mgmt. Servs., Inc. v. Ruecker***, 2026 WI App 20, ¶¶49-55, 420 Wis. 2d 340, 35 N.W.3d 236.

conclusions stated in the complaint ... as true[.]" ***Id.***, ¶19. "Whether a complaint states a claim upon which relief can be granted is a question of law" that we review independently, although "we benefit from" the circuit court's discussion. ***Id.***, ¶17.

We need not analyze the merits of the Woodases' issues, however, because they failed to file a Reply brief refuting the arguments the City raised in its Response brief. *See* ***Apple Hill Farms Dev., LLP v. Price***, 2012 WI App 69, ¶14, 342 Wis. 2d 162, 816 N.W.2d 914 (failure to file a reply brief deemed a concession to respondent's argument). WISCONSIN STAT. § 809.19(4)(a) states: "The appellant *shall* file a reply brief, or a statement that a reply brief will not be filed[.]" (Emphasis added.) The Woodases failed to follow this rule, leading us to conclude that they have conceded that the City's positions set forth in its Response brief—that were not addressed in the Woodases' brief-in-chief—are correct. *See* ***Apple Hill Farms***, 342 Wis. 2d 162, ¶14.

While we recognize that the Woodases are pro se, they must still abide by the same rules as attorneys. *See* ***Waushara County v. Graf***, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). An appellant bears the burden to demonstrate how the circuit court erred. ***Gaethke v. Pozder***, 2017 WI App 38, ¶36, 376 Wis. 2d 448, 899 N.W.2d 381. The Woodases have failed to meet that burden.

Upon the foregoing reasons,

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.

Samuel A. Christensen
Clerk of Court of Appeals