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**DISTRICT IV**

July 31, 2025

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

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2024AP659

Jill Borsuk v. Ron Klain (L.C. # 2024CV27)

Before Kloppenburg, P.J., Blanchard, and Taylor, 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).**

Jill Borsuk, pro se, appeals a circuit court order dismissing Borsuk's action for damages and injunctive relief. Based on 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).<sup>1</sup> We summarily affirm.

In January 2024, Borsuk filed a complaint, and then a first amended complaint, seeking damages and injunctive relief naming John Huber, Mary Beth Huber, Ron Klain, and Chris Matthews as defendants. The amended complaint alleged that Matthews “used Jill Borsuk’s words and ideas without her permission in commercials and programming,” and sought damages and an injunction.<sup>2</sup> The Hubers moved to dismiss the amended complaint for failure to state a claim and lack of personal jurisdiction.

In February 2024, Borsuk sought permission from the circuit court to file a second amended complaint. The court did not grant that permission. Borsuk filed the second amended complaint despite the lack of an order granting leave for her to do so. The second amended complaint named, as additional defendants, Diane King, Rob King, Laura Hershberger, Mark Hershberger, and NBC Universal Media, LLC. The second amended complaint alleged that: the defendants conspired to violate her civil rights; the defendants conspired to gain control of her condominium and inheritance; Klain improperly made Borsuk a target of the Foreign Intelligence Surveillance Court and made her personal information available to the other defendants; NBC used that information in its news programming and commercials; NBC stole Borsuk’s ideas and used them in its programming; the defendants used FBI agents to conduct a simulated sexual assault on Borsuk; and FBI agents attempted to kill Borsuk by attempting to

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version unless otherwise noted.

<sup>2</sup> Borsuk included, as an attachment to her amended complaint, a submission that Borsuk made to the United States Department of Justice, Civil Rights Division, alleging that the Hubers, Klain, and Matthews violated Borsuk’s rights.

cause a vehicular accident among Borsuk and two trucks. The second amended complaint also sought damages and injunctive relief. The Hubers moved to strike the second amended complaint as improperly filed and for failure to state a claim.

After a motion hearing, the circuit court granted the defendants' motions to dismiss the first amended complaint and to strike the second amended complaint, and accordingly the court dismissed Borsuk's action.

Borsuk argues that the circuit court erred by striking the second amended complaint because Borsuk asked the court's permission before filing a second amended complaint. Borsuk contends that, because the court did not respond to her request, Borsuk assumed the court's silence was implied permission to file the second amended complaint. She also contends that her second amended complaint properly states claims for relief.

We conclude that the circuit court did not erroneously exercise its discretion in striking the second amended complaint. A plaintiff may file one amended complaint without permission of the circuit court. WIS. STAT. § 802.09(1). However, to file a second amended complaint, a plaintiff must obtain permission by the court. Under § 802.09(1):

A party may amend the party's pleading once as a matter of course at any time within 6 months after the summons and complaint are filed or within the time set in a scheduling order under [WIS. STAT. §] 802.10. *Otherwise a party may amend the pleading only by leave of court or by written consent of the adverse party*; and leave shall be freely given at any stage of the action when justice so requires.

(Emphasis added.) Here, to repeat, the circuit court did not grant permission for Borsuk to file a second amended complaint.

At the hearing on the motion to dismiss, the circuit court explained that it determined, after reviewing the proposed second amended complaint, that the complaint does not state a

cause of action. We conclude that Borsuk fails to show that the court erroneously exercise its discretion in rejecting the second amended complaint for that reason. *See Linden v. Cascade Stone Co.*, 2004 WI App 184, ¶30, 276 Wis. 2d 267, 687 N.W.2d 823 (“‘A trial court’s decision to grant leave to amend a complaint is discretionary.’” (quoted source omitted)); *State v. Salas Gayton*, 2016 WI 58, ¶20, 370 Wis. 2d 264, 882 N.W.2d 459 (circuit court properly exercises its discretion if it reaches a reasonable determination based on the appropriate law and facts of record).

Borsuk disputes that the second amended complaint fails to state a claim. Borsuk contends that the second amended complaint states claims that the defendants: conspired against Borsuk’s civil rights; forced her to give them control of her condominium and money; made Borsuk a target of an improper investigation; and used Borsuk’s ideas in television programming without her permission. It is true that the second amendment complaint contains conclusory statements to this effect. But it is fatal to the complaint that it fails to set forth sufficient allegations of fact that, if true, would establish that Borsuk is entitled to relief. *See* WIS. STAT. § 802.02(1)(a) (to state a claim for relief, a complaint must plead facts that, if true, would entitle the defendant to relief); *see also Data Key Partners v. Permira Advisers LLC*, 2014 WI 86, ¶¶19, 21, 356 Wis. 2d 665, 849 N.W.2d 693 (courts accept as true all allegations of fact well-pleaded in the complaint and the reasonable inferences arising from those allegations, and sufficient facts must be pled that, if true, plausibly suggest a law violation; courts do not accept as true mere legal conclusions stated in the complaint). For these reasons, the circuit court did not erroneously exercise its discretion in denying Borsuk’s request to file a second amended

complaint because it was not required in the interest of justice.<sup>3</sup> *See* WIS. STAT. § 802.09(1) (providing that “leave shall be freely given at any stage of the action when justice so requires”).

Borsuk also disputes that her first amended complaint fails to state a claim. However, the first amended complaint, like the second amended complaint, fails to state a claim because it contains only conclusory statements of wrongdoing, without sufficient allegations of fact to establish that Borsuk is entitled to relief. *See* WIS. STAT. § 802.02(1)(a); *see also Data Key Partners*, 356 Wis. 2d 665, ¶¶19, 21. Accordingly, we conclude that the circuit court properly dismissed the first amended complaint. *See Chevron Chem. Co. v. Deloitte & Touche*, 176 Wis. 2d 935, 945, 501 N.W.2d 15 (1993) (we may affirm a circuit court’s decision on other grounds). Because we conclude that Borsuk’s first amended complaint fails to state a claim, we do not address the parties’ arguments regarding alternative potential grounds to dismiss the first amended complaint. *See Barrows v. American Fam. Ins. Co.*, 2014 WI App 11, ¶9, 352

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<sup>3</sup> We now briefly explain why we reject NBC’s argument that it should be dismissed as a respondent in this appeal. NBC contends that this court lacks jurisdiction over it because NBC was not named as a defendant until the second amended complaint, which the circuit court struck, and because NBC was not served with the first amended summons and complaint.

NBC cites two authorities. First, it cites WIS. STAT. § 801.11 for the proposition that a Wisconsin court obtains personal jurisdiction over a defendant by service of a summons and complaint. However, § 801.11 sets forth the requirements for obtaining personal jurisdiction by service of a summons in the circuit court. It does not apply to this court’s jurisdiction over parties in an appeal.

Second, NBC cites *Bulik v. Arrow Realty, Inc. of Racine*, 148 Wis. 2d 441, 446, 434 N.W.2d 853 (Ct. App. 1988), for the proposition that “[t]he court has jurisdiction only over the parties named.” However, in *Bulik*, the issue was whether the *circuit court* had personal jurisdiction over defendant Arrow Realty, Inc. *Id.* (stating that the circuit court lacked jurisdiction over the defendant because the defendant was not named in the complaint).

Here, Borsuk challenges the circuit court order striking the second amended complaint that named NBC as a defendant, and thus NBC is a properly named respondent in this appeal. *See* WIS. STAT. RULE 809.01(29) (defining “respondent” as “a person adverse to the appellant”). NBC cites no authority for the proposition that this court lacks jurisdiction over a respondent on appeal when the appellant challenges an order striking a complaint that named that respondent as a defendant.

Wis. 2d 436, 842 N.W.2d 508 (2013) (“An appellate court need not address every issue raised by the parties when one issue is dispositive.”).

Borsuk also contends that the circuit court should have done more to facilitate Borsuk’s right to be heard as a pro se litigant. However, Borsuk does not explain what the court should have done differently or in what way she was denied the opportunity to be heard. Further, the record reflects that the circuit court reviewed both complaints and held a hearing on the motions at which Borsuk was present and at which Borsuk was allowed the opportunity to address the court. We reject this argument for lack of support.<sup>4</sup>

Borsuk also argues that reversal is required in the interest of justice under WIS. STAT. § 752.35. We disagree. For the reasons explained in this opinion, the circuit court did not erroneously exercise its discretion or commit error in dismissing this action.

Therefore,

IT IS ORDERED that the order is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

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

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*

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<sup>4</sup> To the extent that Borsuk raises additional arguments for the first time in her reply brief, we discern no good reason to address those arguments. *See Commerce Bluff One Condo. Ass’n, Inc. v. Dixon*, 2011 WI App 46, ¶2 n.2, 332 Wis. 2d 357, 798 N.W.2d 264 (we generally do not consider arguments that are raised for the first time in an appellant’s reply brief).