



OFFICE OF THE CLERK

Supreme Court of Wisconsin

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WI 53701-1688

TELEPHONE (608) 266-1880

FACSIMILE (608) 267-0640

Web Site: www.wicourts.gov

March 2, 2023

To:

Hon. Gregory J. Strasser
Circuit Court Judge
Marathon County Courthouse
500 Forest St.
Wausau, WI 54403

Justin J. Bates
Bates Legal Group, LLC
209 W. Washington St., Ste. 102
Wausau, WI 54403

Shirley Lang
Clerk of Circuit Court
Marathon County Courthouse
500 Forest St.
Wausau, WI 54403

Scott A. Swid
Benjamin J. Krautkramer
Swid Law Offices, LLC
415 Orbiting Drive
Mosinee, WI 54455

You are hereby notified that the Court, by its Clerk and Commissioners, has entered the following order:

No. 2021AP1932

Letarski Construction v. Hackett, L.C.#2020CV262

On January 10, 2023, the court of appeals issued its final decision in this matter, and on January 24, 2024, it denied a timely filed motion for reconsideration filed on behalf of plaintiff-appellant, Brian Letarski Construction. A petition for review conforming to the requirements of Wis. Stat. § 808.10 and § (Rule) 809.62 must be filed in this court pursuant to Wis. Stat. § 809.80 within 30 days of the court of appeals' adverse decision or within 30 days of the court of appeals' decision on a timely filed motion for reconsideration. See Wis. Stats. § 808.10 and § (Rule) 809.80. Consequently, the deadline for filing a petition for review in this matter was Thursday, February 23, 2023. Wis. Stat. § 808.10(1).

On February 23, 2023, counsel for plaintiff-appellant submitted an electronic copy of a petition for review into the appellate eFiling system. Counsel did not file a paper original or copy of the petition on that date. On February 28, 2023, counsel for the plaintiff-appellant physically filed a paper original of the petition for review, and the required number of copies, with the clerk's office.

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No. 2021AP1932

Letarski Construction v. Hackett, L.C.#2020CV262

Pursuant to this court's June 15, 2021 order entitled "In re Interim Court Rule Governing Electronic Filing in the Supreme Court," (Nos. 19-02A and 20-07A), and the "Wisconsin Supreme Court Electronic Filing Pilot Project: Revised Interim Rule Beginning July 1, 2021" that was adopted by the June 15, 2021 order, as amended by the court's July 7, 2022 order entitled "In re Interim Court Rule Governing Electronic Filing in the Supreme Court," and the "Wisconsin Supreme Court Electronic Filing Pilot Project: Amended Revised Interim Rule Beginning July 1, 2021 (amended July 7, 2022)" that was adopted by the July 7, 2022 order,¹ petitions for review (and appendices) in cases that are not part of the Supreme Court eFiling pilot project must be filed as paper originals or paper copies with the Clerk of the Supreme Court within the 30-day period required by Wis. Stat. § 808.10. This means that the paper original or a paper copy of a petition for review must be physically delivered to the Clerk of the Supreme Court within the 30-day period. Although an electronic copy of the petition for review must also be filed with the Clerk of the Supreme Court, Wis. Stat. § (Rule) 809.62(4)(b), for cases that are not officially designated as part of the eFiling pilot project in the Supreme Court, the physical filing of the paper original or a paper copy of the petition for review (not the electronic copy) is the determining factor for whether a petition for review is timely filed under Wis. Stat. § 808.10.

In this case, the paper original and paper copies of a petition for review were not filed within the 30-day period prescribed by Wis. Stat. § 808.10, and the petitioner has not properly invoked this court's appellate jurisdiction. The plaintiff-appellant's petition for review is untimely and must be dismissed. Accordingly,

IT IS ORDERED that the petition for review is dismissed.

Sheila T. Reiff
Clerk of Supreme Court

¹ The court notes that on February 21, 2023, it further amended Interim Rule Nos. 19-02A and 20-07A "Second Amended Revised Interim Rule Governing Electronic Filing in the Supreme Court," however, the effective date of this amendment is April 1, 2023, and therefore has no bearing in the instant case.