

**COURT OF APPEALS
DECISION
DATED AND FILED**

September 20, 2016

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2014AP953

Cir. Ct. No. 2012CV1463

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

SHALAN FISHER,

PLAINTIFF-APPELLANT,

MARIA FISHER,

PLAINTIFF,

v.

COMPASSIONATE DOCTORS, INC. AND ABDULLATTIEF A. SULIEMAN,

DEFENDANTS-RESPONDENTS,

PROCARE MEDICAL GROUP AND MOHAMMAD SHAKAIB RAZZAQ, MD.,

DEFENDANTS.

APPEAL from an order of the circuit court for Milwaukee County:
MICHAEL GOULOEE, Judge. *Affirmed.*

Before Curley, P.J., Brennan and Brash, JJ.

¶1 PER CURIAM. Shalaan Fisher, *pro se*, appeals the circuit court's order dismissing her civil action against Abdullattief A. Sulieman, her estranged husband, and Compassionate Doctors, Inc., a company wholly owned by Sulieman.¹ The issue is whether the circuit court properly dismissed the claims. We conclude that it did. Therefore, we affirm.

¶2 Fisher and Sulieman were married in 2001. They have been litigating issues pertaining to the dissolution of their marriage since at least 2010. The first divorce action was dismissed by the circuit court in 2010 and affirmed by this court. *See Fisher v. Sulieman*, No. 2010AP1990, unpublished slip op. and order (WI App April 18, 2012). The second divorce action was dismissed by the circuit court on October 16, 2014, reversed by this court on appeal, and remanded for further proceedings. *See Fisher v. Sulieman*, No. 2014AP364, unpublished slip op. (WI App May 27, 2015). That action remains pending in the circuit court, Milwaukee County Circuit Court Case No. 13FA2300. The third divorce action was dismissed by the circuit court and affirmed by this court. *See Fisher v. Sulieman*, No. 2014AP1029, unpublished slip op. (WI App Feb. 17, 2016). In addition to the divorce actions, the parties have filed civil actions in the courts of both Wisconsin and Michigan, including the action currently before us.

¶3 As pertains to this appeal, Fisher brought tort claims against Sulieman and a medical corporation owned wholly by him. In count one, Fisher

¹ Fisher also named Procure Medical Group and Mohammad Shakaib Razzaq, M.D. in her complaint. They are not named as respondents to this appeal. Fisher's mother, Maria Fisher, was a plaintiff in the circuit court. Maria Fisher is not a party to this appeal.

alleged fraudulent misrepresentation. She contended Sulieman made false representations concerning his earning potential, the time he would require to secure employment, and his intention to repay the money Fisher loaned to him to obtain medical licensing in the United States. In count two, entitled “innocent misrepresentation,” Fisher alleged that she would not have married Sulieman if she had known that he would not keep his promises to her. In count three, entitled “exemplary damages,” Fisher alleged she is entitled to damages for the misrepresentations in counts one and two, which caused her to suffer humiliation, outrage, and indignation.² In count five, intentional infliction of emotional distress, Fisher alleged that she lived “in fear of losing [her] property” because she was not able to meet her financial obligations due to Sulieman’s actions. Count six alleged intentional infliction of bodily harm.

¶4 Fisher’s claims for fraudulent misrepresentation, innocent misrepresentation, exemplary damages, and intentional infliction of emotional distress all relate to property and financial issues stemming from her marriage to Sulieman and its dissolution. The circuit court presiding over Fisher and Sulieman’s divorce action has exclusive jurisdiction over these claims under *Gardner v. Gardner* 175 Wis. 2d 420, 424, 499 N.W.2d 266 (Ct. App. 1993), which provides that the court presiding over divorce proceedings is the exclusive forum for actions between spouses in matters involving property.³ Therefore, these claims were properly dismissed.

² Count four, which alleged that there was a conspiracy against Fisher, was dismissed by the circuit court earlier in the case. Fisher has not raised issues pertaining to count four.

³ The *Gardner* decision is based in part on WIS. STAT. § 767.05(7) (1991-92). See *Gardner v. Gardner* 175 Wis. 2d 420, 424, 499 N.W.2d 266 (Ct. App. 1993). That statute has since been renumbered. See WIS. STAT. § 767.331 (2013-14).

¶5 Turning to Fisher’s claim of intentional infliction of bodily harm, this allegation is inadequately pled. The “sufficiency of the facts *alleged* ... controls the determination of whether a claim for relief is properly pled.” *John Doe 67C v. Archdiocese of Milwaukee*, 2005 WI 123, ¶19, 284 Wis. 2d 307, 700 N.W.2d 180 (quotation marks and brackets omitted; alteration in original). Whether a complaint alleges sufficient facts to state a claim is a question of law. *Id.*

¶6 Fisher’s allegations in support of her claim for intentional infliction of bodily harm are sparse. She alleges that she has sustained “physical and nervous conditions as a result of [Sulieman’s] brutality.” She further alleges that “the level of [Sulieman’s] brutality ... rose to the level of criminal assault and battery necessitating that she seek medical treatment and hospitalization on numerous occasions.” Fisher does not explain when, where, or how her physical injuries occurred. Indeed, it is unclear from the pleadings whether Fisher is alleging that Sulieman *physically harmed her* or whether Sulieman’s treatment of her *resulted in physical harm to her* due to the mental and emotional anguish she endured. We therefore conclude that Fisher has not alleged sufficient facts to state a claim for intentional infliction of bodily harm.

¶7 The circuit court provided several alternative grounds for dismissing this action. Because our conclusions dispose of this appeal, we do not address issues arising from the circuit court’s alternative reasons for dismissing the appeal. *See Turner v. Taylor*, 2003 WI App 256, ¶1 n.1, 268 Wis. 2d 628, 673 N.W.2d 716 (if a decision on one point disposes of the appeal, the appellate court need not decide the other issues raised).

¶8 Sulieman moves for attorney's fees and costs on the grounds that this appeal is frivolous. *See* WIS. STAT. RULE 809.25 (2013-14). We deny the motion. We also deny regular costs to either party.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5. (2013-14).

