COURT OF APPEALS
DECISION
DATED AND FILED

June 21, 2016

Diane M. Fremgen
Clerk of Court of Appeals

Appeal No. 2015AP618 **Cir. Ct. No. 2014CV008100**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

RALPH SASSON,

PLAINTIFF-APPELLANT,

V.

STEPHEN KRAVIT, AARON AIZENBERG, HOWARD WEITZMAN, JEREMIAH REYNOLDS, TIMOTHY HANSEN, JAMES BARTON AND CREATIVE ARTISTS AGENCY, LLC, A LIMITED LIABILITY COMPANY,

DEFENDANTS-RESPONDENTS,

DOES 1-50, INCLUSIVE,

DEFENDANT.

APPEAL from orders of the circuit court for Milwaukee County: CHRISTOPHER R. FOLEY, Judge. *Affirmed and cause remanded with directions.*

Before Kessler, Brennan and Brash, JJ.

¶1 PER CURIAM. Ralph Sasson appeals from two orders of the trial court. The first is dated February 10, 2015, granting the defendants' motions to dismiss/motions for summary judgment, granting in part and denying in part defendants' motions to file documents under seal, and granting defendants' motion to preclude plaintiff from filing future lawsuits against defendants without first obtaining leave from the court. The second order is dated March 27, 2015, denying the plaintiff's motion for relief from judgment.

¶2 This is the second of two related lawsuits filed by Sasson, and it is also his second appeal. In his first lawsuit against professional baseball player Ryan Braun; Braun's sports agent, Onesimo Balelo; and Balelo's agency, Creative Artists Agency, LLC (CAA), the trial court (the Honorable Paul R. Van Grunsven) dismissed all of his claims as a sanction for his egregious conduct and bad faith and ordered attorneys' fees for the defendants. Sasson appealed that order and the denial of his motion for reconsideration. We affirmed in ***Sasson v. Braun***, No. 2014 AP1707, unpublished slip op. (WI App June 25, 2015) (***Sasson I***), *review denied*, 2016 WI 2, 365 Wis. 2d 743, 872 N.W.2d 669.

¶3 While the first lawsuit was on appeal, the defendants sought and obtained a contempt finding from Judge Van Grunsven due to Sasson's release of Balelo's deposition, which was contrary to the court's "standing seal order." Shortly after ***Sasson I*** concluded, Sasson filed this lawsuit against Braun's and Balelo's attorneys from the first case and the agency that represented Balelo, alleging: (1) civil conspiracy to commit extortion; (2) abuse of process; (3) false imprisonment; and (4) malicious prosecution. Each of his claims arose out of his

contention that the attorneys brought a "malicious and improper" contempt motion against him in the first lawsuit.[1]

¶4 The trial court in the second lawsuit (the Honorable Christopher R. Foley) dismissed all four of the claims, concluding that they were barred for three reasons: (1) issue preclusion; (2) failure to state a claim; and (3) qualified immunity. The trial court further found that this lawsuit was frivolous and imposed a sanction of restrictions on future filings by Sasson as well as an order for attorneys' fees.

¶5 Sasson appeals, arguing that: (1) the trial court erred in granting summary judgment because his claims were legally sufficient and material factual disputes existed; (2) the trial court misused its discretion in finding Sasson made a judicial admission when he agreed on the record that he had been found in contempt; (3) the trial court erred in finding Sasson's claims to be barred by the doctrine of issue preclusion; (4) the trial court erred in finding he had engaged in a pattern of frivolous litigation and in finding Sasson's claims to be frivolous in this case; and (5) the trial court misused its discretion in viewing Sasson's motion for relief from judgment as a motion for reconsideration.

¶6 We agree with the trial court and affirm. We conclude that each of Sasson's claims here is based on faulty factual and legal premises, namely, Sasson's arguments that: (1) he was never subject to a "standing seal order" in the first lawsuit prohibiting him from releasing the deposition; and (2) he was never found in contempt in the first lawsuit for releasing the deposition, and even if he

[1] Sasson's first lawsuit included as defendants Ryan Braun and Onesimo Balelo, while the second lawsuit did not include them but added Braun's and CAA's attorneys.

was found in contempt, he should not have been. Because the record is clear that Sasson *was* found in contempt in the first lawsuit and *never appealed* the contempt finding, we need not revisit that issue. And because our decision in ***Sasson I*** clearly established that he *was subject* to the "standing seal order" in the first lawsuit and properly sanctioned with the dismissal of all claims as a sanction for his egregious conduct and bad faith, we need not (and cannot) revisit that issue. *See* ***Cirilli v. Country Ins. & Fin. Servs***., 2013 WI App 44, ¶8, 347 Wis. 2d 481, 830 N.W.2d 234 (citation omitted) (issue preclusion prevents relitigation of issues that have actually been litigated in a prior proceeding).

¶7 As a result, all of Sasson's claims here fail because of issue preclusion and failure to state a claim. Accordingly, we agree with the defendants and the trial court and affirm the dismissal, findings of frivolity, sanctions, and award of attorneys' fees.[2] We remand to the trial court solely for determination of reasonable attorneys' fees.

BACKGROUND

¶8 At the outset, we note that much of both lawsuits was filed under seal in the trial court. Our previous decision in ***Sasson I*** was a per curiam, as is this. While we go into some of the background from Sasson's first lawsuit, we principally quote from our decision in ***Sasson I*** in addition to the procedural background relevant to the resolution here. As we stated in ***Sasson I***: "For purposes of our analysis, it is not important to know the nature of the claims or the underlying factual allegations, except to know that one of the claims against Braun

[2] We need not reach the qualified immunity issue because we resolve on other grounds. *See* ***State v. Blalock***, 150 Wis. 2d 688, 703, 442 N.W.2d 514 (Ct. App. 1989) (cases should be decided on the narrowest possible grounds).

was for libel." ***Sasson I***, No. 2014 AP1707, unpublished slip op., ¶2 (WI App June 25, 2015).

¶9 Sasson filed his first lawsuit, *pro se*, in Milwaukee County Circuit Court on July 31, 2013. The Honorable Paul R. Van Grunsven presided over that first case. Attorney Stephen Kravit and Attorney Aaron Aizenberg represented CAA and Balelo, and Attorneys Hansen, Barton, Weitzman and Reynolds served as legal counsel for Braun in the first lawsuit and on appeal in ***Sasson I***. Sasson represented himself (as he continues to do), alleging that he was a law student when he filed his first action in 2013.

¶10 Judge Van Grunsven dismissed the case on June 11, 2014. Sasson filed a notice of appeal of that order on July 22, 2014, and of the trial court's August 11, 2014, order denying his motion to vacate or reconsider. We affirmed in a decision released June 25, 2015, stating:

> Ralph Sasson appeals the circuit court's order dismissing his lawsuit with prejudice as a sanction for Sasson's bad faith and egregious misconduct in litigating his claims … We conclude that the circuit court reasonably exercised its discretion in imposing the sanction, and also that the circuit court properly denied Sasson's reconsideration motion.

Sasson I, No. 2014 AP1707, unpublished slip op. (WI App June 25, 2015).

¶11 We specifically rejected Sasson's claims that he had not violated two specific seal orders from the trial court. We referred to the first one as the "standing seal order." ***Id.***, ¶¶15, 21. We noted that Sasson never denied publicly releasing Balelo's deposition but instead argued that the trial court had not ordered that deposition to be sealed. ***Id.***, ¶22. We concluded that while the "standing seal order" was ambiguous as to whether it applied to deposition testimony, Sasson's own statements at the hearing "sufficiently clarified that disclosing Balelo's

deposition testimony to a third party would run afoul of the order the court planned to issue." ***Id.***, ¶24. Further, we found that "Sasson does not dispute that during his deposition testimony he indicated that he thought deposition testimony was protected by the standing seal order." ***Id.***

¶12 As to the second seal order, a subsequent oral order specific to Balelo's deposition, we noted that Sasson stated on the record of the Balelo deposition that he agreed the deposition would be "confidential." ***Id.***, ¶26. We noted that the trial court then expressly ordered: "The Court will order the deposition transcript sealed." And we labeled as frivolous Sasson's argument that "will" meant that the order would not take effect until some future court action. ***Id.***

¶13 We concluded that in releasing discovery materials under seal, Sasson acted intentionally and in bad faith, and we affirmed the trial court's findings in that regard based on *all* of the issues we had already addressed in the opinion including:

- his lack of professionalism in failing to cooperate with the other attorneys despite repeated warnings from the court;
- his deposition testimony "replete with expletives and informality";
- his unsubstantiated libel allegations;
- his breach of the seal orders;
- his violation of an order to compel discovery responses; and

- his misuse of legal process in revealing the Balelo deposition.[3]

Id., ¶61.

¶14 The one issue Sasson never raised in ***Sasson I*** is the one on which most of his entire second lawsuit is based, and the one he raises in this appeal, namely, whether he was properly found in contempt by Judge Van Grunsven in July of 2014. The procedural history of that contempt motion follows.

¶15 Judge Van Grunsven dismissed Sasson's claims on June 11, 2014, finding that he had intentionally violated the court's seal order by releasing a deposition, stating as follows:

> The seal order would be virtually useless if it did not prevent the parties from verbally disclosing the confidential information contained in the sealed record ….
>
> ….
>
> Sasson's disclosure of Balelo's sealed deposition testimony was done intentionally and with conscious disregard for the seal order issued by this Court …

¶16 Judge Van Grunsven next discussed Sasson's lengthy pattern of misconduct:

> Notwithstanding these warnings, Sasson has continued to seek irrelevant and embarrassing information about the defendants through discovery.
>
> ….

[3] *See* ***Sasson v. Braun***, No. 2014 AP1707, unpublished slip op. (WI App June 25, 2015) (***Sasson I***), *review denied*, 2016 WI 2, 365 Wis. 2d 743, 872 N.W.2d 669 for the other issues decided, which are not pertinent to this appeal. We noted in ***Sasson I*** that Sasson raised seven main arguments with sub-parts, but we found none persuasive and "[t]o the extent we do not address each of Sasson's many sub-arguments, those arguments are rejected as too undeveloped or meritless to warrant discussion." ***Id.***, ¶20 (citation omitted).

> Instead of responding in good faith to the defendants' discovery requests as ordered by the Court, Sasson has continued to assert baseless objections without providing any meaningful responses.
>
> ….
>
> Despite the Court's admonitions, Sasson's conduct with respect to the other attorneys in this case has been unprofessional, inappropriate and uncooperative.
>
> ….
>
> Sasson was expressly ordered by this Court to produce the evidence underlying his allegation that Braun "purposely sought to publish his false statements to other parties in written form …." Once Sasson realized that discovery would not produce the necessary evidence of publication, he had an obligation to withdraw the allegation and the libel claim based on that allegation. Instead, Sasson continues to advocate for the viability of his libel claim despite having absolutely no evidence ….

¶17 Judge Van Grunsven then concluded as follows:

> The Court finds that Sasson's repeated failures to comply with court orders, discovery rules, and the applicable rules of civil procedure are extreme, substantial, and persistent. Given the number of times Sasson was warned that this Court would not tolerate these violations, Sasson's continued noncompliance was egregious and done in bad faith. Sasson's unjustifiable behavior threatens the integrity of the judicial process, and therefore warrants the most severe sanction available—dismissal of this case with prejudice.

¶18 On July 13, 2014, shortly after Judge Van Grunsven had dismissed Sasson's claims and despite the court's seal orders, Sasson posted his February 4 and 6, 2014, videotaped deposition on YouTube. Sasson had agreed on the record at the conclusion of each day of the deposition that the deposition would be subject to the court's seal order of January 29, 2014.

¶19 On July 15, 2014, Attorney Kravit sent an e-mail to Sasson warning him that if he was the person who posted the deposition on YouTube, he was in contempt of court and in violation of the restrictions he agreed to on the record in the sealed deposition. On July 16, 2014, Sasson replied to Kravit's e-mail as follows: "[T]he deposition isn't sealed, and without the courts express approval the agreement is unenforceable."

Later, Sasson told Judge Van Grunsven that he not only had the right to violate the seal order, he had an obligation to do so. Sasson also posted a statement on the website Deadspin.com that he "posted this video to challenge the court's unconstitutional seal order," and he told ESPN's "Outside the Lines" that he "posted this video to … test the boundaries of the seal."

¶20 On July 15, 2014, CAA and Balelo, later joined by Braun, filed a motion requesting Sasson be held in contempt for publicly disseminating his deposition. On July 16, 2014, Sasson sent an e-mail to one of the attorneys involved in the motion, stating, "I hope the court takes this joke of a motion seriously so I can wipe my posterior with it." On July 17, 2014, Sasson posted to YouTube an eight-minute edited "highlights" video of his deposition.

¶21 On July 22, 2014, Sasson filed his Notice of Appeal of the court's June 11, 2014, order dismissing his claims and ordering attorneys' fees.

¶22 On July 23, 2014, the court granted the contempt motion, finding as follows:

> The defendants argue that by posting his deposition video on YouTube, the plaintiff directly violated the Court's seal order.

> The defendants point out that the posting also violated a stipulation of confidentiality entered into by the parties during the plaintiff's deposition.
>
> ….
>
> Deposition transcripts clearly indicate an understanding by all parties that deposition testimony was to remain confidential pursuant to the seal order.
>
> Sasson's deposition transcript reflects such an agreement.
>
> ….
>
> Sasson has made it very clear that he intended to violate the Court's seal order by … posting portions of his video deposition on YouTube.
>
> *A party's unwillingness to obey a court order is the very definition of contempt* ….
>
> ….
>
> As of July 22, 2014 Sasson's deposition video remains posted on YouTube in violation of the Court's seal order.
>
> *Sasson's contempt is ongoing and sanctions are therefore appropriate.*
>
> ….
>
> And given the record now before the Court, I'm ordering the following:
>
> First of all, pursuant to Section 785.03(1)(b) [(2013-2014)[4]], this matter is referred to the district attorney for Milwaukee County for investigation into the imposition of a punitive sanction by issuance of a complaint charging Sasson with contempt of court and reciting the sanction sought to be imposed.
>
> ….

[4] All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

> Mr. Kravit and Mr. Barton, with regard to your other requests for relief, I am taking all of those requests for relief under advisement, and same are held in abeyance pending a subsequent hearing before this Court.

(Emphasis added.)

¶23 On July 24, 2014, Judge Van Grunsven entered an order relating to the hearing, noting "Ralph Sasson's contempt of this Court." Sasson never appealed this order and never argued the contempt finding in the appeal he had just filed two days previously. In fact, although in August 2014 he filed a second Notice of Appeal of the trial court's order denying his motion for relief from judgment (which was actually a motion for reconsideration), he never added the contempt finding to the appeal.

¶24 After Sasson left the courtroom on July 23, 2014, he was arrested in the courthouse hallway. Neither the defendants, nor their attorneys, requested Sasson's arrest or requested that Sasson be referred to the District Attorney's office (DA). Judge Van Grunsven referred Sasson to the DA solely on his own initiative, pursuant to the authority granted him under WIS. STAT. § 785.03(1)(b).

¶25 On August 22, 2014, the DA notified Sasson that it did not intend to file contempt of court charges against him. At a hearing on September 30, 2014, Judge Van Grunsven asked Attorney Kravit whether he wanted to set a date for a hearing on a remedial sanction for the contempt, to which Kravit responded that he would contact the court if he wanted to pursue the matter further. Subsequently, on June 25, 2015, we affirmed the dismissal order in ***Sasson I***.

¶26 Sasson filed the second lawsuit on September 18, 2014, raising four claims: (1) civil conspiracy to commit extortion, (2) abuse of process, (3) false imprisonment, and (4) malicious prosecution. The defendants each filed motions

for summary judgment and/or motions to dismiss the case. A hearing was held on January 26, 2015, and Judge Foley granted the motions, concluding all claims were based on Sasson's argument that Judge Van Grunsven's seal order in ***Sasson I*** did not extend to depositions, so he could not be in contempt.

¶27 In his decision, Judge Foley pointed out that the seal order was previously fully litigated, as was the contempt finding, and was not appealed by Sasson in ***Sasson I***. Therefore, Judge Foley concluded that Sasson's second lawsuit must be dismissed for three reasons: (1) issue preclusion; (2) qualified immunity; and (3) because all of his claims failed to state a cognizable claim for relief under law. The court stated:

> I'm granting the motions …. I'm doing so on three independent grounds, qualified immunity, the complaint on its face does not and cannot plead the requisite elements of any of the causes of action alleged and issue preclusion ….
>
> ….
>
> So with that, there's an immutable truth in this case that defeats any claim that the conduct of the defendants is not immunized and that the causes of action for abuse of process, malicious prosecution and similar claims cannot be made and supported.
>
> In Mr. Sasson's mind, the immutable truth is that the original seal order did not and could not extend to the deposition testimony that becomes critical to all of his claims even with his two-time acknowledgement that it did.
>
> ….
>
> But the actual immutable legal truth is that the motion was found to have merit; Mr. Sasson was held in contempt. That determination is [now] final and it refutes as a matter of law any conclusory assertions in his pleadings that the motion was unfounded, meritless, maliciously motivated, etcetera.
>
> With that immutable legal truth in mind as to qualified immunity, the defendant[s] … have qualified immunity ….

> ….
>
> With respect to the causes of action[,] … [e]ach of the causes of action pled is wholly dependent upon a showing of maliciousness, baselessness, meritlessness … of the motion for contempt and the conduct interrelated to the motion. It is established that the motion had merit and … defeats as a matter of law all of the claims.
>
> ….
>
> The validity of the motion for contempt [was] fully and fairly and repeatedly litigated before Judge Van Grunsven by the very same parties [or] their privies and a final determination was made on the merits.
>
> Mr. Sasson's remedy was to appeal that determination which he did not do. Issue preclusion prohibits him from relitigating that identical issue here in effect saying that Judge Van Grunsven was wrong.

¶28 In addition to dismissing Sasson's lawsuit, the trial court also barred him from filing any further lawsuits against the parties named as defendants or their attorneys in the cases pending before Judge Van Grunsven and Judge Foley without first obtaining leave of court.

DISCUSSION

1. None of Sasson's claims state a proper claim for relief because all are premised on issues we have previously ruled on and/or issues Sasson failed to timely appeal in his first lawsuit.

¶29 We review summary judgment decisions *de novo*. *See* ***Metropolitan Ventures, LLC v. GEA Assocs.***, 2006 WI 71, ¶20, 291 Wis. 2d 393, 717 N.W.2d 58. In our review, we apply the same methodology as the trial court, but benefit from its analysis. *See* ***id.***; *see also* ***Atkins v. Swimwest Fam. Fitness Ctr.***, 2005 WI 4, ¶11, 277 Wis. 2d 303, 691 N.W.2d 334.

¶30 Summary judgment shall be granted where there are no genuine issues of material fact, and the moving party is entitled to judgment as a matter of

law. *See* WIS. STAT. § 802.08(2); *see also* ***Green Spring Farms v. Kersten***, 136 Wis. 2d 304, 315, 401 N.W.2d 816 (1987). "Disputed issues of fact which are immaterial to the questions of law presented do not afford a basis for denying … summary judgment." *See* ***Steeno v. Wolff***, 14 Wis. 2d 68, 76, 109 N.W.2d 452 (1961).

Issue Preclusion

¶31 Each of Sasson's claims, (1) civil conspiracy to commit extortion, (2) abuse of process, (3) false imprisonment, and (4) malicious prosecution, arose out of his contention that the attorneys brought a "malicious and improper" contempt motion against him in the first lawsuit. It was improper, he argued, because he was not prohibited by the seal order from releasing his videotaped deposition. The trial court ruled that both the scope of the "standing seal order" and the contempt finding were fully and previously litigated and resolved, and, therefore, the issues were precluded.

¶32 We agree with the trial court that Sasson's lawsuit should be dismissed on the doctrine of issue preclusion.[5] "Issue preclusion prevents the

[5] In his argument before the trial court, Sasson argued that the court should not consider the defendants' arguments regarding issue preclusion because the defendants raised this argument for the first time in their reply brief. He makes that same argument on appeal, saying that the trial court erred by not striking the defendants' reply brief and by considering issue preclusion *sua sponte*. He cites no authority for either proposition, and we reject them as both undeveloped and without any basis in law. We note that the trial court chose to *sua sponte* consider the doctrine of issue preclusion as part of its decision. The court's reasoning shows a proper exercise of discretion:

> In some measure, I'm not even considering Mr. Laing's assertions as to issue preclusion. The reality is … I would have dismissed this case on the basis of issue preclusion sua sponte.

(continued)

relitigation of issues that have actually been litigated in a prior proceeding." ***Cirilli***, 347 Wis. 2d 481, ¶8.

¶33 "In order for the bar to apply, the party against whom it is being asserted must have been a party to the prior action (or in privity with a party), the issue must have been actually litigated in that action …." ***Reuter v. Murphy***, 2000 WI App 276, ¶7, 240 Wis. 2d 110, 622 N.W.2d 464 (citation and internal quotation marks omitted). "[A]pplication of the rule in the case at hand must comport with principles of fundamental fairness." ***Id.*** "[O]nce an issue is actually and necessarily determined by a court of competent jurisdiction, that determination is conclusive in subsequent suits." ***Paige K.B. v. Steven G.B.***, 226 Wis. 2d 210, 219, 594 N.W.2d 370 (1999) (citation omitted).

¶34 Issue preclusion is based on principles of fairness, consistency, and judicial economy. It "wards off endless litigation, ensures the stability of

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> When I first reviewed this file, a specter of claims being barred by issue preclusion immediately came into my mind. I am not the Appella[te] Court for Judge Van Grunsven.
>
> ….
>
> The validity of the motion for contempt [was] fully and fairly and repeatedly litigated before Judge Van Grunsven by the very same parties [or] their privies and a final determination was made on the merits.
>
> Mr. Sasson's remedy was to appeal that determination which he did not do. Issue preclusion prohibits him from relitigating that identical issue here in effect saying that Judge Van Grunsven was wrong in forcing the defendants to defend again against claims on which they have already fully and finally prevailed.
>
> So on those three bases, I am granting the motion to dismiss ….

judgments, and guards against inconsistent decisions on the same set of facts." ***Gentilli v. Board of Police & Fire Comm'rs of City of Madison***, 2004 WI 60, ¶40, 272 Wis. 2d 1, 680 N.W.2d 335. "[T]here is a point at which litigation involving the particular controversy must end." ***Flooring Brokers, Inc. v. Florstar Sales, Inc.***, 2010 WI App 40, ¶6, 324 Wis. 2d 196, 781 N.W.2d 248.

¶35 The elements of issue preclusion are all met here: Sasson was a party in the underlying case; the existence of the standing seal orders and Sasson's contempt of court were actually and fully litigated in that case; and the motion for contempt was extensively briefed by all parties. After carefully considering the matter, Judge Van Grunsven granted the contempt motion, finding it meritorious, and held Sasson in contempt of court. Sasson chose not to appeal. Instead, he raises the same arguments in this case as he argued in his response to the defendants' motion for contempt. Precluding Sasson from relitigating that issue comports with principles of fundamental fairness, and the doctrine of issue preclusion fits squarely with the facts of this case. The trial court did not err in dismissing Sasson's lawsuit based on that doctrine.

Failure to State a Claim

¶36 It is well-established law in Wisconsin that the first step of summary judgment methodology requires the court to examine the pleadings to determine whether a claim for relief has been stated. ***Green Spring Farms***, 136 Wis. 2d at 315. Sasson's claims never make it past this first step.

¶37 Sasson argues that summary judgment was not proper because his claims were legally sufficient, and the contempt finding on which they were based was improper, or at least that there are material factual disputes with regard to it. We reject his claim that material factual disputes exist here. His argument is that

the factual dispute is whether the trial court found him in contempt at all (and here Sasson confuses a *finding* of contempt with *imposition of a sanction*—no sanction was imposed here) and whether that finding of contempt was proper. But as we have shown above, the trial court did find him in contempt: "Sasson's contempt is ongoing and sanctions are therefore appropriate." And Sasson had his chance to appeal the contempt finding and did not do so. The time for appealing it has long since passed. He cannot now raise it. *See* ***Eau Claire Cty. v. Employers Ins. of Wausau***, 146 Wis. 2d 101, 111, 430 N.W.2d 579 (Ct. App. 1988) (trial court not authorized to expand the time for appeal when the time for such appeal has passed).

¶38 And because all of his claims are based on issues previously fairly and fully litigated, and decided against him (as we noted above), none of Sasson's claims state a *proper* cause of action. Sasson's first claim was civil conspiracy to commit extortion under WIS. STAT. § 134.01. The elements of Sasson's first claim required Sasson to establish that two or more persons acted together for the purpose of (1) "willfully or maliciously injuring another in his or her reputation, trade, business or profession," (2) "maliciously compelling another to do or perform any act against his or her will," or (3) "preventing or hindering another from doing or performing any lawful act." ***Id.***

¶39 This claim fails because there was nothing willful or malicious about the filing of the motion for contempt. It was a perfectly lawful attempt to prohibit and sanction Sasson from doing an unlawful act—the release of his deposition which ***Sasson I*** concluded he had been ordered not to release. *See* ***Tensfeldt v. Haberman***, 2009 WI 77, ¶57, 319 Wis. 2d 329, 768 N.W.2d 641 (it is unlawful to violate a court order).

¶40 Sasson's next cause of action, abuse of process, has two elements: "(1) a purpose other than that which the process was designed to accomplish, and (2) a subsequent misuse of the process." ***Keller v. Patterson***, 2012 WI App 78, ¶13, 343 Wis. 2d 569, 819 N.W.2d 841. Sasson claims that by filing the motion for contempt the defendants committed an abuse of process. But this claim fails for the same reasons as his first claim; the defendants were using process for a proper purpose, which was a judicial decision on contempt. *See* ***Thompson v. Beecham***, 72 Wis. 2d 356, 364, 241 N.W.2d 163 (1976); ***Schmit v. Klumpyan***, 2003 WI App 107, ¶8, 264 Wis. 2d 414, 663 N.W.2d 331.

¶41 To establish his third cause of action, false imprisonment, Sasson was required to show that the defendants confined him without consent or authority. *See* ***Maniaci v. Marquette Univ.***, 50 Wis. 2d 287, 295, 184 N.W.2d 168 (1971). His theory was that by filing the motion for contempt, the defendants caused his arrest by the DA. As the trial court correctly found when dismissing this cause of action:

> The false imprisonment claim probably should be commented upon specifically. It's established and acknowledged on the record that the defendants pursued a valid motion for contempt. It sought remedial sanctions while suggesting that criminal sanctions might also be appropriate. Judge Van Grunsven found a basis for both and referred the matter to the DA. The ***Man[i]aci*** case makes clear that no liability can flow to the defendants for pursuing a valid contempt motion under these circumstances.

¶42 Sasson's final asserted cause of action was for malicious prosecution, which requires proof of six elements, including that the defendants caused an unfounded and malicious prosecution against him. *See* ***Elmer v. Chicago & N.W. Ry. Co.***, 257 Wis. 228, 231, 43 N.W.2d 244 (1950). Here, no judicial proceeding was ever commenced against Sasson; he was merely referred

to the DA for possible institution of criminal contempt proceedings against him, but none were ever filed. Accordingly, we agree with the trial court that none of Sasson's four civil claims were properly pled or supported and that all failed because of the doctrine of issue preclusion.[6]

2. The trial court appropriately found Sasson's lawsuit to be frivolous.

¶43 We review a trial court's decision that an action was commenced frivolously for an erroneous exercise of discretion. *See* ***Storms v. Action Wis., Inc.***, 2008 WI 56, ¶34, 309 Wis. 2d 704, 750 N.W.2d 739.

¶44 A claim is frivolous when the claim lacks "any reasonable basis in law or equity." *See* ***Brueggeman v. Jerome Foods, Inc.***, 227 Wis. 2d 531, 563, 597 N.W.2d 744 (1999) (citation omitted). In determining whether an action is frivolous, a court should keep in mind that a significant purpose of the frivolous action statute is to help maintain the integrity of the judicial system and the legal profession. *See* ***Sommer v. Carr***, 99 Wis. 2d 789, 799, 299 N.W.2d 856 (1981). "[C]ourts and litigants should not be subjected to actions without substance." ***Brueggeman***, 227 Wis. 2d at 572.

¶45 Courts have discretionary authority to require a *pro se* litigant to obtain leave of court before filing any future lawsuits if it is found that the *pro se* litigant has engaged in misconduct, including filing frivolous actions. *See* ***Puchner v. Hepperla***, 2001 WI App 50, 241 Wis. 2d 545, 625 N.W.2d 609;

[6] We need not reach the trial court's third basis for dismissal, qualified immunity, because we resolved this appeal on the other grounds. *See* ***Blalock***, 150 Wis. 2d at 703 (cases should be decided on the narrowest possible grounds).

see also ***Village of Tigerton v. Minniecheske***, 211 Wis. 2d 777, 565 N.W.2d 586 (Ct. App. 1997).

¶46 In finding Sasson's lawsuit frivolous, the trial court[7] stated as follows:

> [T]here is nothing here, Mr. Sasson, and you're not to file anything absent those conditions as a sanction for what I really do consider to be frivolous, a frivolous action. ….
>
> ….
>
> [Y]ou went on the record twice and stipulated that this stuff was going to stay private ….
>
> You say Judge Van Grunsven is wrong. I get that. In your mind, he's wrong. I get it. You saying it doesn't make it so and legally it is not so. The legal reality is he is right.

¶47 Sasson argues that the trial court erred in granting the defendants' motion to preclude him from filing future lawsuits against them without first obtaining leave of court and in finding Sasson's claims to be frivolous because he has not yet established a *pattern* of frivolous litigation. Further, he argues that the court's order was unnecessary because the doctrine of *res judicata* already bars him from filing an action against the same parties for the same issues.

¶48 The defendants argue that the facts are clear: "Sasson was held in contempt, failed to appeal that finding, and filed a separate lawsuit against the attorneys who filed the motion for contempt asserting all kinds of wild tort claims

[7] The Honorable Christopher R. Foley presiding.

when the law is crystal clear that he cannot do so. That is the very definition of frivolous."

¶49 We agree with the defendants. We concluded in ***Sasson I*** that Sasson violated the "standing seal order," which prohibited the release of discovery material as well as pleadings and that Sasson had acknowledged the scope and existence of that order on the record. *See* ***Sasson I***, No. 2014AP1707, unpublished slip op. (WI App June 25, 2015). Based on that finding, we also concluded that the trial court had properly concluded that he acted egregiously and in bad faith, and we affirmed dismissal of his claims as a sanction. Here, Sasson again argues that he should not have been found in contempt for releasing his deposition because it was not subject to the "standing seal order." The record shows the frivolousness of that claim.

¶50 Additionally, Sasson argues the impropriety of the contempt finding even though he never properly appealed that finding and even though that finding is also based on the "standing seal order." Accordingly, this argument is also frivolous.

¶51 Then Sasson filed the four claims here which the trial court expressly found to be frivolous. This clearly demonstrates a *pattern* of frivolousness. The trial court correctly determined it was justified in entering an order precluding Sasson from suing these parties or their lawyers again without first obtaining proper leave. The integrity of the judicial system and the legal profession is paramount. *See* ***Sommer***, 99 Wis. 2d at 861. That finding and order was well within the trial court's discretion and authority to do. Sasson cannot be allowed to waste the court's valuable time without some reasonable controls, such as the court put in place here. *See* ***Jandrt***, 227 Wis. 2d at 572.

3. The trial court appropriately used its discretion in treating Sasson's motion for relief from judgment as a motion for reconsideration and denying his motion.

¶52 In determining whether a motion is for reconsideration or for relief from judgment, the motion's substance, and not its label, is what dictates whether it should be considered a motion for reconsideration or relief from judgment. *See* ***Borrero v. City of Chicago***, 456 F.3d 698, 701-02 (7th Cir. 2006).

¶53 We review the trial court's decision that this was actually a motion for reconsideration for an erroneous exercise of discretion. *See* ***Koepsell's Olde Popcorn Wagons, Inc. v. Koepsell's Festival Popcorn Wagons, Ltd.***, 2004 WI App 129, ¶6, 275 Wis. 2d 397, 685 N.W.2d 853.

> To prevail on a motion for reconsideration, the movant must present either newly discovered evidence or establish a manifest error of law or fact. A "manifest error" is not demonstrated by the disappointment of the losing party. It is the wholesale disregard, misapplication, or failure to recognize controlling precedent.

Id., ¶44 (citations omitted).

¶54 Sasson argues that a motion for relief from judgment cannot be converted into a motion for reconsideration because he purposely filed a motion for relief from judgment and not a motion for reconsideration.

¶55 The defendants argue that "Sasson's motion for reconsideration was nothing more than a mere rehashing of his old, tired, twice-rejected arguments. It presented nothing new."

¶56 In a letter to the parties, the trial court stated:

> [Sasson's] recently filed motion is a motion for reconsideration. You can't denominate it a motion for

> relief from judgment and avoid the proscriptions applicable to the substance of such a motion.
>
> As Mr. Sasson himself points out, the motion for reconsideration is procedurally deficient in that it is untimely. Substantively it is deficient in that it does not come close to meeting the ***Koepsell*** standard. "You were wrong then" and "you are wrong now" establishes neither newly discovered evidence nor a manifest error of law. It simply reiterates what I already know. Mr. Sasson believes I am wrong. As he knows, I am adamant I am right.
>
> The motion for reconsideration is denied.

¶57 We hold that the trial court properly exercised its discretion in determining that Sasson's motion was actually one for reconsideration. Since it was, under ***Ver Hagen*** it is not appealable. "[I]t has frequently been held that an order entered on a motion to modify or vacate a judgment or order is not appealable where, as here, the only issues raised by the motion were disposed of by the original judgment or order." ***Ver Hagen v. Gibbons***, 55 Wis. 2d 21, 25, 197 N.W.2d 752 (1972). The issues raised in Sasson's motion were disposed of by the trial court and are not appealable.

4. The defendants should be awarded their costs.

¶58 If a trial court's finding of frivolousness is affirmed on appeal, a responding party on appeal is automatically entitled to an award of reasonable attorneys' fees for the appeal. *See* ***Riley v. Isaacson***, 156 Wis. 2d 249, 262-63, 456 N.W.2d 619 (Ct. App. 1990). In ***Riley***, the court held that:

> [U]pon an appeal from a ruling of frivolousness, the reviewing court need not determine whether the appeal itself is frivolous before it can award appellate costs and reasonable attorney's fees. Rather, if the claim was correctly adjudged to be frivolous in the trial court, it is frivolous *per se* on appeal …. Consequently, we hold that a party prevailing in the defense of an award of fees under sec. 802.05 is also entitled to a further award on appeal without a finding that the appeal itself is frivolous under Rule 809.25(3), Stats.

Id.

¶59 Accordingly, we remand to the trial court for a determination of an award for the defendants' reasonable appellate costs and attorneys' fees in connection with this appeal.

¶60 For all of the foregoing reasons, we affirm and remand.

By the Court.—Orders affirmed and cause remanded with directions.

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