

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 14, 2017

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. 2015AP1493

Cir. Ct. No. 2014CV3511

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

**THE SEGREGATED ACCOUNT OF AMBAC ASSURANCE
CORPORATION (THE “SEGREGATED ACCOUNT”) AND
AMBAC ASSURANCE CORPORATION (“AMBAC”),**

PLAINTIFFS-APPELLANTS,

v.

COUNTRYWIDE HOME LOANS, INC.,

DEFENDANT-RESPONDENT-PETITIONER.

APPEAL from an order of the circuit court for Dane County:
PETER C. ANDERSON, Judge. *Affirmed.*

Before Lundsten, P.J., Blanchard, and Kloppenburg, JJ.

Per curiam opinions 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).

¶1 PER CURIAM. The Segregated Account of Ambac Assurance Corporation and Ambac Assurance Corporation¹ appeal an order dismissing Ambac’s action alleging fraudulent inducement against Countrywide Home Loans, Inc. because Ambac failed to show that the circuit court has personal jurisdiction over Countrywide in this action.

¶2 Ambac Assurance has its principal place of business in New York. In 2005, it issued policies insuring against losses stemming from residential mortgage-backed securities that involved mortgage loans originated by Countrywide, a New York corporation. Ambac alleges in this action that, in issuing the policies, it relied on misrepresentations by Countrywide, and that as a result Ambac was obligated to cover substantial insurance claims that arose in the wake of the collapse of the mortgage-backed securities market in and around 2010. *See Nickel v. Wells Fargo Bank*, 2013 WI App 129, ¶¶2-9, 351 Wis. 2d 539, 841 N.W.2d 482.

¶3 In June 2016, this court concluded that the circuit court has personal jurisdiction over Countrywide in this action because Countrywide consented to general personal jurisdiction. *Segregated Account of Ambac Assurance Corp. v. Countrywide Home Loans, Inc.*, No. 2015AP1493, unpublished slip. op. (WI App June 23, 2016) (per curiam) (“*Ambac I*”). In June 2017, our supreme court reversed, and remanded to this court to address, for the first time, two independent grounds that Ambac contends allow Wisconsin courts to exercise specific personal

¹ We use “Ambac” to refer to the two entities collectively or when distinguishing between the two makes no difference. For individualized references, we use “the segregated account” or “Ambac Assurance.”

jurisdiction over Countrywide in this action: (1) that Countrywide consented to personal jurisdiction in Wisconsin for purposes of an action of the type now pursued by Ambac by appearing in the 2010 rehabilitation proceeding in Wisconsin circuit court that created the segregated account; and (2) that Countrywide is subject to personal jurisdiction for purposes of the instant action under the provision of Wisconsin’s long-arm statute addressing “foreign act” and “local injury,” WIS. STAT. § 801.05(4).² *Segregated Account of Ambac Assurance Corp. v. Countrywide Home Loans, Inc.*, 2017 WI 71, ¶¶1 & n.3, 30, 376 Wis. 2d 528, 898 N.W.2d 70 (“*Ambac II*”).

¶4 We conclude that Ambac fails to carry its burden of showing that Countrywide consented to personal jurisdiction in this action by appearing in the rehabilitation proceeding. We also conclude that Ambac’s implicit concession that no injury to Ambac occurred in Wisconsin for purposes of its fraudulent inducement claim compels the conclusion that Countrywide is not subject to personal jurisdiction under Wisconsin’s long-arm statute. Accordingly, we affirm.

BACKGROUND

¶5 We now repeat general background contained in *Ambac I*, which in itself is largely sufficient background to address the issues we resolve in this appeal as argued by the parties:

In December 2014, [Ambac] filed a complaint to initiate this action in Dane County circuit court, alleging fraudulent inducement against Countrywide. The complaint includes the following allegations.

² All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

Ambac [Assurance] “is a Wisconsin-domiciled stock insurance corporation,” with “its principal place of business in New York, New York.” Countrywide “is a New York corporation with its princi[pa]l executive offices” in California, and during the pertinent period originated mortgage loans.

In 2005, Ambac [Assurance] issued policies insuring against losses resulting from residential mortgage-backed securities, based on representations made by Countrywide to Ambac [Assurance] during 2004-05 regarding Countrywide’s mortgage origination practices. Because Countrywide provided false and misleading information in this connection, Ambac is obligated to make “more than \$350 million in claims payments.”

The Segregated Account was established in 2010, pursuant to WIS. STAT. § 611.24, under a [rehabilitation] plan approved by the Wisconsin commissioner of insurance. Ambac [Assurance] then “allocated” the above-referenced policies to the Segregated Account. A circuit court “placed the Segregated Account into statutory rehabilitation under WIS. STAT. §§ 645.31 and 645.32.” The rehabilitation proceedings were pending in Dane County circuit court at the time the complaint in this action was filed.

In February 2015, Countrywide moved to dismiss or stay this action on multiple grounds, including that the court lacks personal jurisdiction over Countrywide, The circuit court granted the motion to dismiss for lack of personal jurisdiction.

Ambac I, ¶¶2-6.

¶6 We address additional pertinent facts in the discussion below, including the few facts regarding the rehabilitation proceeding highlighted by the parties in this appeal.

DISCUSSION

¶7 The existence of personal jurisdiction presents a question of law subject to de novo review. *Ambac II*, 376 Wis. 2d 528, ¶7. We address in turn Ambac’s two arguments that remain after our supreme court’s decision.

I. Consent By Appearance In The Rehabilitation Proceeding

¶8 Ambac argues that, when Countrywide voluntarily appeared in the 2010 rehabilitation proceeding in Wisconsin circuit court and sought to limit Ambac’s rights in all residential mortgage-backed securities transactions that Ambac insured, Countrywide subjected itself to personal jurisdiction for “counterclaims” by Ambac, including what amount to Ambac’s “counterclaims” of fraudulent inducement in this “related” action. Countrywide responds that this consent-by-prior-appearance argument runs counter to Wisconsin statutes addressing personal jurisdiction and that Countrywide did not take any action in the rehabilitation proceeding “that would authorize its being haled into a Wisconsin court years later, in a separate action, to answer unrelated claims.”

¶9 We first set forth the few facts regarding the rehabilitation proceeding highlighted by the parties and then explain why we conclude that Ambac fails to show that Countrywide’s participation in the rehabilitation proceeding constituted consent to personal jurisdiction for this action.

A. Rehabilitation Proceeding Facts

¶10 As our supreme court noted in *Ambac II*, “helpful background on rehabilitation proceedings” is found in *Nickel*, 351 Wis. 2d 539, ¶¶12-15, which generally describes how the state insurance commissioner commences and proceeds in an insurance rehabilitation and liquidation under WIS. STAT. ch. 645.

See *Ambac II*, 376 Wis. 2d 528, ¶3 n.4. In *Nickel*, we affirmed the circuit court’s confirmation of the commissioner-rehabilitator’s 2010 rehabilitation of the Ambac segregated account. *Nickel*, 351 Wis. 2d 539, ¶1. Countrywide Home Loans Servicing L.P. was listed as an “interested party” in the caption of the case, but Countrywide was not otherwise referred to in *Nickel*.

¶11 Each side in this appeal makes only a few, broad references to pertinent aspects of the Ambac rehabilitation proceeding. Ambac points to the following facts, which Countrywide does not contradict:

- Countrywide appeared in the 2010 rehabilitation proceeding and, without raising any jurisdictional objection, took positions regarding possible relief based on assertions of its own rights. This included Countrywide objecting, including during a five-day hearing, to “key features” of the proposed plan and joining in a multi-party submission to the circuit court of proposed findings of fact and conclusions of law. One “key feature” of the proposed plan opposed by Countrywide was continuing or permanent injunctive relief to preserve Ambac’s rights in residential mortgage-backed securities transactions.
- Countrywide took these positions in the proceeding “shortly after being sued by Ambac and the Segregated Account in New York for fraud and breach of contract in connection with 17 [residential mortgage-based securities] transactions that Ambac had insured.”

¶12 Countrywide points to the following facts regarding the rehabilitation proceeding, and Ambac does not contradict them:

- Countrywide’s appearance in the proceeding was limited to joining with trustees for residential mortgage-based securities trusts in objecting to the proposed plan.
- Countrywide asserted no claims or proofs of claims in the proceeding.
- The circuit court’s January 24, 2011 order confirming the rehabilitation plan directed that “[a]ny litigation pertaining to, or arising from, this rehabilitation, the Plan or this Order *shall be exclusively venued* in this Court.” (Emphasis in briefing)

B. Analysis

¶13 Ambac’s consent-by-prior-appearance argument is premised on the following facts. The rehabilitation proceeding affected the rights of Countrywide concerning specific residential mortgage-backed securities transactions, and Countrywide appeared in the proceeding in an attempt to defend its own interests related to those transactions. Based on these facts, Ambac contends, Countrywide in the rehabilitation proceeding necessarily “invoked the jurisdiction of the [c]ircuit [c]ourt with regard to its relationship to the Segregated Account,” and must therefore “answer” Ambac’s “claims in relation to the [residential mortgage-backed securities] transactions” in this separate, but related, action. We are not persuaded.

¶14 We begin, and could end, with Ambac’s inadequate response to one of Countrywide’s arguments. Countrywide argues that, based on Wisconsin statutes governing civil procedure, an appearance constitutes a waiver of objection to personal jurisdiction in only two circumstances, neither of which exist here: (1) where a counterclaim is asserted against a person in a Wisconsin action after the same person commenced that action; or (2) where a claim is asserted against a person who appears in a Wisconsin action and fails to state the defense of lack of jurisdiction in a motion to dismiss or responsive pleading. *See* WIS. STAT. §§ 801.06, 802.06(8); *see also Artis-Wergin v. Artis-Wergin*, 151 Wis. 2d 445, 452, 444 N.W.2d 750 (Ct. App. 1989) (interpreting §§ 801.06 and 802.06(8) (1987-88) to hold that defendant forfeited objection to personal jurisdiction by appearing and seeking relief aside from jurisdictional objections). While Ambac makes arguments in its reply brief on appeal that are plainly inconsistent with Countrywide’s contention that these statutes defeat Ambac’s consent-by-prior-appearance argument, Ambac’s arguments are unsupported by citation to legal

authority and, more importantly, fail to address the statutes or Countrywide's interpretation of them. This failure effectively concedes the point. See *United Coop. v. Frontier FS Coop.*, 2007 WI App 197, ¶39, 304 Wis. 2d 750, 738 N.W.2d 578 (appellant's failure to respond in reply brief to an argument made in response brief may be taken as a concession).

¶15 We could end our treatment of Ambac's consent-by-prior-appearance argument here. However, we make the following additional points about inadequacies of Ambac's briefing on this topic.

¶16 In its principal brief on appeal, Ambac bases its argument in large part on inapplicable case law from Wisconsin and other jurisdictions that establishes only the following proposition: when a party appears at any stage in a case without objecting to personal jurisdiction, then the party forfeits that objection as to later proceedings *in the same case*. See, e.g., *Artis-Wergin*, 151 Wis. 2d at 448 (party in divorce action whose attorney's letter to the circuit court sought delay to file responsive pleading for purposes of offering a jurisdictional defense, but "did not expressly reserve a jurisdictional objection," forfeited personal jurisdiction defense *in the same divorce action*). After Countrywide points out in its response brief that this "same case" forfeiture rule has no evident application in a situation such as this, involving two distinct actions, Ambac in its reply brief fails to address the point directly, effectively conceding that the "same case" forfeiture rule stated in this case law does not apply here.

¶17 This concession is especially notable given the unusual nature of insurer rehabilitation proceedings under WIS. STAT. ch. 645. These are not conventional, adversarial civil proceedings. Without delving into the details of insurance rehabilitation proceedings generally or the specific proceeding here, it is

sufficient to observe that, in order to counter Countrywide's argument, it would seem that Ambac needs to explain not only why the existence of two separate cases does not matter, which Ambac fails to do, but also to go further, and explain why it does not matter that the two proceedings here are distinctly different.

¶18 Separately, Ambac argues in its principal brief on appeal that there is a strong analogy to be made between its consent-by-prior-appearance argument and rules that have been applied in federal bankruptcy court and in litigation related to insurance liquidations in Louisiana and Kansas. However, as we now explain, we consider these other contexts to be readily distinguishable.

¶19 The federal bankruptcy legal proposition that Ambac cites is the following: creditors who file proofs of claim in bankruptcy proceedings "bring[] themselves within the equitable jurisdiction of the Bankruptcy Court." *See Langenkamp v. Culp*, 498 U.S. 42, 45 (1990). However, Countrywide did not submit a proof of claim in the Ambac rehabilitation proceeding, and Ambac fails to develop an argument that any of Countrywide's conduct in the rehabilitation proceeding is comparable to the filing of a proof of claim in a bankruptcy proceeding.

¶20 Turning to Ambac's reliance on opinions of courts in Louisiana and Kansas regarding insurance liquidation proceedings, in these cases, non-resident entities that had submitted proofs of claim in the liquidation proceedings were deemed to have consented to personal jurisdiction in subsequently filed *enforcement actions* arising out of the liquidations *brought by the respective state insurance liquidators*. *See Benjamin v. E.J. Halverson & Assoc., Inc.*, 924 So. 2d 1093 (La. App. 2006); *Todd v. Lakeland Chrysler-Plymouth-Dodge, Inc.*, 834 P.2d 387 (Kan. App. 1992). We fail to discern any helpful comparison. This

is a tort action brought by Ambac, not an enforcement action brought by the rehabilitator.

¶21 We next address Ambac’s references, in both its principal and reply briefs, to the fact, referenced above, that Countrywide participated in the rehabilitation proceeding *after* Ambac sued Countrywide in a New York action alleging fraud and breach of contract in connection with residential mortgage-based securities transactions. It is unclear, but the concept may be that the New York action put Countrywide on notice that Ambac was alleging that Countrywide had committed fraud and that therefore Countrywide’s subsequent participation in the Wisconsin rehabilitation proceeding was done with the intent to contest fraud allegations by Ambac, the same topic raised in this action.

¶22 Ambac offers the following hypothetical. Assume that, instead of this action by Ambac, Countrywide had sued Ambac in Wisconsin circuit court seeking to limit Ambac’s rights involving all residential mortgage-backed securities transactions, and that in this hypothetical action Ambac filed counterclaims against Countrywide. Ambac argues that Countrywide’s appearance in the rehabilitation proceeding was “the equivalent” of such a hypothetical action that generates Ambac counterclaims against Countrywide. We fail to see an analogy in this hypothetical that supports Ambac’s consent-by-prior-appearance argument. As far as we can tell, this hypothetical represents an entirely different situation, one contemplated in WIS. STAT. §§ 801.06 and 802.06(8), as referenced above. More generally, whatever Ambac means to argue about Countrywide’s knowledge or intent, beginning no later than when Ambac filed the New York action, we fail to see how this concept advances Ambac’s consent-by-prior-appearance argument.

¶23 We close on the topic of whether Countrywide’s prior appearance in the rehabilitation action translates into personal jurisdiction in this action by noting a larger flaw in Ambac’s consent-by-prior-appearance argument. The flaw is that Ambac’s argument appears to have no logical stopping point. Ambac fails to articulate a clear standard, supported by legal authority, that could be applied to establish consent-by-prior-appearance by Countrywide in this case, such that the standard would not also establish consent-by-prior-appearance for virtually all defendants named in new Wisconsin cases that share overlapping subject matters and parties with any prior Wisconsin case.

¶24 In sum, we conclude that Ambac fails to carry its burden of establishing personal jurisdiction based on Countrywide’s appearance in the rehabilitation proceeding.

II. Personal Jurisdiction Through Long-Arm Statute

¶25 Ambac bases its second personal jurisdiction argument on one subsection of Wisconsin’s long-arm statute, WIS. STAT. § 801.05(4). This “foreign act” and “local injury” provision, to quote its title, establishes personal jurisdiction over a defendant in Wisconsin actions in which the plaintiff is “*claiming injury to person or property within this state arising out of*” the defendant’s “act or omission outside this state,” so long as the defendant or a representative on behalf of the defendant solicited or conducted service activities in Wisconsin “at the time of the injury.”³ (Emphasis added.) The parties dispute

³ WISCONSIN STAT. § 801.05 provides in pertinent part:

A court of this state having jurisdiction of the subject matter has jurisdiction over a person served in an action pursuant to s. 801.11 under any of the following circumstances:

(continued)

whether Ambac alleges “injury to person or property within this state.” We resolve this issue based on Ambac’s silence, and thus effective concession, with respect to (1) the legal proposition that the “injury to person or property within this state,” in the specific context of a claim of fraudulent inducement, is the place where the alleged victim reasonably relied on the false representation that causes injury and (2) the undisputed fact that the alleged reliance by Ambac occurred outside Wisconsin.

¶26 Our supreme court has explained the two-step process for determining whether a court may exercise personal jurisdiction over a non-resident, which as stated above involves de novo review:

In determining whether personal jurisdiction may be exercised over a nonresident defendant, we employ a two-step inquiry. The first step is to determine whether the defendant meets the criteria for personal jurisdiction under the Wisconsin long-arm statute. If the requirements set out in the long-arm statute are satisfied, “then the court must consider whether the exercise of jurisdiction comports with due process requirements.”

....

(4) LOCAL INJURY; FOREIGN ACT. In any action claiming injury to person or property within this state arising out of an act or omission outside this state by the defendant, provided in addition that at the time of the injury, ...:

(a) Solicitation or service activities were carried on within this state by or on behalf of the defendant; ...

Regarding the final element that we cite, addressing “solicitation,” Countrywide argues that Ambac failed to establish the necessary solicitation by Countrywide at the time that Ambac alleges it was injured in Wisconsin. However, given our resolution of other issues we need not address this additional potential basis on which to affirm the circuit court or the meaning of subsection (a) of WIS. STAT. § 801.05(4).

The plaintiff has a “minimal burden” of showing that the statutory and constitutional requirements are met. In performing this jurisdictional analysis, “we may consider documentary evidence and weigh affidavits in reaching a determination as to whether this burden has been met. Factual doubts are to be resolved in favor of the plaintiff.” Finally, the Wisconsin long-arm statute is to be construed liberally in favor of the exercise of personal jurisdiction.

Rasmussen v. General Motors Corp., 2011 WI 52, ¶¶16-17, 335 Wis. 2d 1, 803 N.W.2d 623 (citations omitted).

¶27 There is no dispute that Ambac has alleged “an act or omission” by Countrywide that occurred “outside this state.” However, turning to another requirement in WIS. STAT. § 801.05(4), Countrywide contends that Ambac fails to meet its “minimal burden” of showing that Countrywide caused “injury to person or property within this state.” Because Ambac effectively concedes this issue, as we explain, we do not analyze any other portion of § 801.05(4), nor do we reach the second step in the personal jurisdiction analysis of considering due process requirements.

¶28 Neither party cites Wisconsin authority that interprets WIS. STAT. § 801.05(4) to determine what a plaintiff must prove in order to show that its action “claim[s] injury to person or property within this state.”⁴ Nor is any part of

⁴ Countrywide asserts that *F.F. Mengel Co. v. Village of North Fond du Lac*, 25 Wis. 2d 611, 131 N.W.2d 283 (1964), supports the proposition that “a corporation’s residence for situs of injury purposes is where it maintains its principal place of business,” but *F.F. Mengel* is a “taxable situs” case that does not address the concept of injury in any form. It plainly has no bearing on issues raised in this appeal.

Ambac directs us to *Milwaukee Cty. v. Hartford Cas. Co.*, 151 Wis. 2d 463, 444 N.W.2d 455 (Ct. App. 1989), but that case is also inapposite. That case involved injury that was suffered by a subrogee entirely in Wisconsin, and it sheds no light on any issue here. For example, it contains no statement that supports Ambac’s position that any time an entity incorporated in Wisconsin suffers some eventual, downstream economic injury in Wisconsin, the corporation

(continued)

the phrase defined in § 801.05. Thus, it appears that the issue is open in Wisconsin as to what counts as sufficient proof of a “local injury” from a “foreign act.”⁵

¶29 However, we resolve this issue based on Ambac’s failure to reply to one reasonable, potentially dispositive interpretation offered by Countrywide based on persuasive authority, namely, that the “injury to person or property within this state,” *in the specific context of a claim of fraudulent inducement*, is the place where the alleged victim reasonably relied on the false representation that causes injury. This effective concession settles the issue, because there is no dispute that Ambac’s reliance in issuing the insurance policies did not occur in Wisconsin. We now explain the argument that Countrywide makes, to which Ambac provides no response.

¶30 The argument that Ambac fails to respond to is narrow but clear. For purposes of this argument, Countrywide does not attempt to provide a broad interpretation of “injury to person or property within this state,” or even an interpretation that might apply to a subset of cases, such as to tort claims. Instead, relying on persuasive authority, Countrywide argues that the cause of action of fraudulent inducement results in “injury” for jurisdictional purposes “at the point

necessarily establishes personal jurisdiction under WIS. STAT. § 801.05(4). And, after Countrywide contends in its response brief that Ambac has failed to cite any authority in support of this position, Ambac has nothing of substance to say on this topic in its reply brief.

⁵ We note that the “local act or omission” provision of the long-arm statute contains wording that overlaps with wording in WIS. STAT. § 801.05(4). *See* § 801.05(3) (“In any action *claiming injury to person or property within or without this state* arising out of an act or omission within this state by the defendant.”) (emphasis added). However, the parties do not identify any authority interpreting the overlapping wording from § 801.05(3), and our limited research reveals no authority.

where the alleged inducement is effectuated—*not* when remote consequences allegedly stemming from the fraud come to pass.” (Emphasis in briefing.) For this proposition, Countrywide relies on a broad range of persuasive authority that uses varying terminology to hold that the “place of the wrong” (or “the heart of the wrong,” the “complet[ion],” or the “accrual”) of a cause of action for fraudulent inducement is where the alleged victim acts in reliance on the claimed misrepresentation, not later, such as when monetary damages result.

¶31 None of the authority cited by Countrywide in making this argument is Wisconsin based. However, Countrywide’s argument is, at a minimum, one reasonable interpretation of WIS. STAT. § 801.05(4) in the specific context of a fraudulent inducement claim. The elements of fraudulent inducement in Wisconsin are the following: (1) the defendant represented a fact; (2) that was untrue; (3) knowing it to be untrue or recklessly ignoring whether or not it was true; (4) with intent to defraud and to induce another to act upon it; (5) the plaintiff believed the statement and relied on it to his or her detriment; and (6) the misrepresentation occurred before contract formation. *See Kaloti Enters., Inc. v. Kellogg Sales Co.*, 2005 WI 111, ¶¶12, 30, 283 Wis. 2d 555, 699 N.W.2d 205. At issue here is one portion of element 5: that the plaintiff relied on the defendant’s statement to its detriment. To repeat, it is not disputed that Ambac Assurance negotiated and issued the insurance policies at issue in New York, where it has its principal place of business, and there is no reasonable dispute that Ambac’s reliance was entirely manifested through its issuance of the policies. Thus, on the reliance issue, Ambac makes no headway in undermining facts supporting the circuit court’s observation that Ambac’s fraudulent inducement claim here involves “a New York based transaction with a New York centered injury.”

¶32 Ambac has other arguments, but it has no response to Countrywide’s fraudulent-inducement-specific argument, thereby conceding the point.⁶

¶33 We now briefly address an argument that Ambac does make, which supports our reliance on Ambac’s concession to Countrywide’s fraudulent inducement-specific argument. Ambac contends in part that, despite the undisputed New York backdrop for its fraudulent inducement claims, it has alleged “injury to person or property” in Wisconsin because the segregated account needed to be created in Wisconsin as an eventual result of Countrywide’s alleged fraudulent inducement and because Ambac has made claim payments on the insurance policies and generated “significant costs,” including “professional fees in Wisconsin.” In other words, Ambac points to the eventual, downstream damages that the Wisconsin-created segregated account has suffered, allegedly due to Countrywide’s fraudulent inducement, as being sufficient to establish injury in Wisconsin under WIS. STAT. § 801.05(4).

¶34 Again, however, there is no dispute that Countrywide’s alleged fraudulent inducement involved representations that were made when Ambac Assurance issued the insurance policies out of its New York residence. Nor is there any dispute that the segregated account would not exist until years later, after the rehabilitation proceeding commenced. Ambac’s damages argument fails to come to grips with the fact that, under the Countrywide legal argument that

⁶ Based on the general proposition that “the place of injury is where the economic impact of defendant’s conduct is felt,” Ambac argues that Countrywide “never explains why the ‘economic impact’ of fraud cannot be felt in more than one state.” However, no such explanation is needed here, because it is not seriously disputed that Ambac’s reliance on the alleged fraudulent inducement occurred outside Wisconsin.

Ambac fails to counter, the germane injury for jurisdictional purposes is the issuance of insurance policies in New York in alleged reliance on Countrywide’s fraudulent inducement. Ambac fails to provide an explanation, supported by legal authority, as to why we should conclude that the downstream injuries it points to matter for purposes of WIS. STAT. § 801.05(4).

¶35 In sum, Ambac fails to explain why Countrywide is not correct that the “injury” here ended with Ambac’s acts in reliance that occurred outside Wisconsin, at least in the context of the claim of fraudulent inducement made on the undisputed facts highlighted by the parties on appeal.

CONCLUSION

¶36 For these reasons, we agree with the circuit court that Ambac failed to carry its burden of establishing personal jurisdiction on either of the two grounds that it relies on not already rejected by our supreme court.

By the Court.—Order affirmed.

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

