COURT OF APPEALS DECISION DATED AND RELEASED

JULY 29, 1997

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

NOTICE

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

No. 96-3558-FT

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

JOHN E. PICKEL,

PLAINTIFF-APPELLANT,

V.

JOHN HARR, JR. AND DONNA HARR,

DEFENDANTS-RESPONDENTS,

LARRY LAMPHERE AND REBECCA LAMPHERE,

DEFENDANTS.

APPEAL from an order of the circuit court for Burnett County: WARREN WINTON, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. John Pickel appeals a postjudgment trial court order that awarded Donna and John Harr statutory costs.[1] He maintains that the trial court's award was not timely, outside the strict thirty-day deadline of § 806.06(4), STATS., for the winning party to perfect a judgment. The Harrs submitted their bill of costs well within the thirty-day deadline, but Pickel's objection to their bill persuaded the trial court clerk to refer the matter to the trial judge for resolution. On its part, the trial court was unable to resolve the matter within the thirty-day time frame. On appeal, Pickel argues that the issue's delay beyond the thirty-day deadline had the effect of invalidating the Harrs' bill of costs and the trial court's costs award. He takes the position that neither the trial court nor the trial court clerk may extend costs taxation beyond the statutory thirty-day deadline. We reject these arguments and therefore affirm the trial court costs award.

Section 806.06(4), STATS., requires the winning party to perfect the judgment within thirty days of entry or "forfeit the right to recover costs." It defines "perfection" as "taxation of costs." Section 806.06(1)(c), STATS. We must read statutes sensibly and restrain a statute's literal words to avoid absurdities. *See* ***Jankowski v. Milwaukee County,*** 104 Wis.2d 431, 438, 312 N.W.2d 45, 49 (1981) (*quoting* ***Church of the Holy Trinity v. United States***, 143 U.S. 457, 460 (1892)). Here, the statute seemingly blurs the standard definition of the term "taxation." The terms "to tax" mean to levy, to exact, or to assess. MERIAM-WEBSTER'S COLLEGIATE DICTIONARY 1208 (10th ed. 1994); BLACK'S LAW DICTIONARY 816, 1309 (5th ed. 1979). Only trial court clerks, not litigants, have the power to tax or levy costs; litigants may merely ask the clerk to effect the

[1] This is an expedited appeal under RULE 809.17, STATS.

taxation. As a result, § 806.06 cannot literally require the Harrs to tax costs within thirty days; at most, it can require them to submit their bill of costs within a sufficient time frame to permit the trial court clerk to tax costs within the thirty-day period. The Harrs met their bill of costs deadline and thereby did nothing to lose their right to statutory costs.

Section 806.06(4), STATS., is not the last word on the trial clerk's duties. On receiving a timely bill of costs, the trial court clerk has the authority "to adjourn" taxation of costs in the event of an objection. Section 814.10(3), STATS. This statute, however, mandates no specific procedure for trial court clerks to effect an adjournment. It nowhere purports to require trial court clerks to issue an official notice of their "adjournment" to the parties. Rather, by virtue of its brevity and generality, the statute confers on trial court clerks considerable freedom in fashioning a procedure in this aspect of their official duties. *See* ***Wilke v. Eau Claire First Fed. S & L***, 108 Wis.2d 650, 654, 323 N.W.2d 179, 181 (Ct. App. 1982); *cf.* ***DOR v. Exxon Corp.***, 90 Wis.2d 700, 712, 281 N.W.2d 94, 100-01 (1979). Here, when the trial court clerk received Pickel's objection to the Harrs' bill of costs, the trial court clerk deferred her taxation on a de facto basis. That de facto deferral "adjourned the taxation" within the meaning of § 814.10(3), STATS., without the formal issuance of an official notice.

Last, the trial court clerk's § 814.10(3), STATS., "adjournment" preserved the Harrs' right to recover costs under § 806.06(4), STATS. We must read these two statutes together in a harmonious fashion, *see* ***Pella Mut. Ins. Co. v. Hartland Richmond Town Ins. Co.***, 26 Wis.2d 29, 41, 132 N.W.2d 225, 230 (1964), and more specific statutes prevail over general ones. *See* ***Schlosser v. Allis-Chalmers Corp.***, 65 Wis.2d 153, 161, 222 N.W.2d 156, 160 (1974). Here, if we reconcile the trial court clerk's general thirty-day duty to tax costs in harmony

with her specific power to adjourn the taxation, we conclude that her adjournment power operates to toll the thirty-day deadline. Any other construction would produce an inharmonious result, *see* ***Holy Trinity***, 143 U.S. at 460, by practically nullifying the trial court clerk's power to defer costs disputes in appropriate cases. We see no evidence that the legislature intended these procedural statutes to have the harsh practical effect of nullifying the trial court clerk's reasoned resolution of legitimate substantive disputes on statutory costs made beyond the thirty-day deadline. In short, we see no irregularity in the trial court clerk's procedures or the trial court's costs award.

By the Court—Order affirmed.

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