

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**August 8, 2006**

Cornelia G. Clark  
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. 2005AP2624**

**Cir. Ct. No. 2005CV632**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**RAY OMERNICK,**

**PLAINTIFF-APPELLANT,**

**V.**

**PAT PECKHAM,**

**DEFENDANT-RESPONDENT.**

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APPEAL from a judgment of the circuit court for Marathon County:  
JAMES R. HABECK, Judge. *Affirmed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 PER CURIAM. Ray Omernick, pro se, appeals a judgment dismissing his lawsuit against Pat Peckham, and awarding Peckham costs and attorney fees for a frivolous claim. In April 2004, Omernick filed suit against Peckham, alleging Peckham had defamed him in a newspaper article. Peckham

moved to dismiss the case based on Omernick's failure to first serve a retraction or correction demand on Peckham or the newspaper, as required under WIS. STAT. § 895.05(2).<sup>1</sup> The circuit court dismissed the action and Omernick appealed. That appeal was dismissed for lack of jurisdiction based on Omernick's failure to timely file a notice of appeal. His motion for reconsideration and subsequent petition for review were denied.

¶2 In July 2005, Omernick filed the underlying lawsuit against Peckham, alleging Peckham had perjured himself in an affidavit that was submitted in the initial case. Peckham moved to dismiss the suit on the basis of claim preclusion, arguing that the alleged false representations of the affidavit mirrored those made in the newspaper article. The circuit court agreed, holding that Omernick's present action was "substantially identical" to his earlier suit. The court dismissed the action and awarded Peckham costs and attorney fees pursuant to WIS. STAT. § 814.025. This appeal follows.

¶3 The sole issue before this court is whether Omernick's claims are barred by the doctrine of claim preclusion. Omernick claims that the doctrine should not preclude his claim against Peckham. He fails however, to cite any legal authority for his contention or otherwise state why the circuit court's determination was erroneous. Pro se litigants are bound by the same rules that apply to attorneys on appeal. *Waushara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992). Under WIS. STAT. RULE 809.19(1)(e), proper appellate argument requires an argument complete with appropriate citation to authority,

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

demonstrating why the trial court's decision was wrong based on the information the court had before it at the time the decision was made. This court will not consider arguments unsupported by legal authority. *See State v. Shaffer*, 96 Wis. 2d 531, 545-46 n.3, 292 N.W.2d 370 (Ct. App. 1980). Nor will we abandon our neutrality by developing Omernick's unsupported arguments for him. *See Barakat v. DHSS*, 191 Wis. 2d 769, 786, 530 N.W.2d 392 (Ct. App. 1995). Because Omernick's argument fails to comply with RULE 809.19(1)(e), we affirm the judgment.

*By the Court.*—Judgment affirmed.

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

