

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 17, 2000

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

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.

No. 00-1561

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT III

STRASSER & YDE,

PLAINTIFF-RESPONDENT,

v.

JOEL LARSON,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Marathon County:
GREGORY E. GRAU, Judge. *Affirmed.*

¶1 PETERSON, J.¹ Joel Larson appeals a judgment entered against him for unpaid legal services. Because Larson raises his arguments for the first time on appeal, we affirm the judgment.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(f)(1997-98). All references to the Wisconsin Statutes are to the 1997-98 version unless otherwise noted.

BACKGROUND

¶2 Larson hired Attorney Mary Hogue and Attorney Matthew Yde to represent his interests in upholding a will that made Larson the sole beneficiary of his mother's estate. Larson's siblings challenged the will, alleging that their mother was unduly influenced by Larson and was incompetent when she executed the will. Hogue and Yde defended the allegations at trial. At the conclusion of the trial, the will was admitted to probate.

¶3 The Strasser & Yde, S.C., law firm then filed a small claims action against Larson for unpaid legal services in the amount of \$4,679.51. Strasser & Yde also filed a small claims action on behalf of the Mary M. Hogue Law Office, LLC, against Larson for unpaid legal services in the amount of \$3,191.85.²

¶4 Larson appeared on his own behalf at a court trial on both cases. Larson informed the court that he had no complaints with the legal bills. His only defense to the amount owed was that he believed he was not required to pay the entire balance of the bills until the estate was closed. Larson estimated that the estate would be finalized within sixty days and requested a postponement until that time. The trial court entered judgment against Larson, plus statutory costs. This appeal followed.

DISCUSSION

¶5 On appeal, Larson makes what we perceive to be four arguments. First, he was not properly served. Second, his mother's estate is responsible for the bills, not him personally. Third, he did not agree to retain Yde as counsel.

² Larson does not appeal the judgment entered in favor of Hogue, Case No. 00-SC-745.

Fourth, false statements were made to the circuit court concerning whether a bond was issued and whether payments were made.

¶6 A review of the record reveals that Larson failed to raise any of these arguments at the trial court. Appellate courts generally refuse to consider issues raised for the first time on appeal. See *Segall v. Hurwitz*, 114 Wis. 2d 471, 489, 339 N.W.2d 333 (Ct. App. 1983).

¶7 At trial, the court reviewed the allegations in the complaints with Larson. Larson admitted that he owed the money. His only defense was that he did not believe Strasser & Yde and Mary Hogue were entitled to full payment until his mother's estate was closed. Before the judgment was entered, the following exchange took place between the trial court and Larson:

THE COURT: Let me see if I understand this: Mr. Larson, you are in agreement that you owe both Ms. Hogue and Strasser & Yde the amount of money that they request in their respective complaints, but it's your position that you don't want a judgment entered at this point in time because you aren't going to be receiving the fruits of their labor until approximately two months down the road when everything is finalized in terms of closing out the estate and distributing the assets.

MR. LARSON: Right.

¶8 The trial court concluded that Larson did not have a valid defense. Larson could have raised the issues in the trial court he now raises. Larson could have also raised these issues in a motion for reconsideration within twenty days after the judgment or in a motion for relief from judgment. See WIS. STAT. §§ 805.17(3) and 806.07. Failing to raise issues in the trial court deprives both the adversary and the trial court of the opportunity to address them. See *Terpstra v. Soiltest, Inc.*, 63 Wis. 2d 585, 593-94, 218 N.W.2d 129 (1974). Larson has offered no reason why he failed to raise the issues in the trial court or why this

court should address the issues. Therefore, consistent with our general policy, we choose not to address Larson's arguments.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

