

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**July 25, 2002**

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. 01-3442  
STATE OF WISCONSIN**

**Cir. Ct. No. 99-CV-228**

**IN COURT OF APPEALS  
DISTRICT IV**

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**THE SCHARINE GROUP, INC.,**

**PLAINTIFF-RESPONDENT,**

**V.**

**HACK FARMS, INC.,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment of the circuit court for Jefferson County:  
ARNOLD K. SCHUMANN, Reserve Judge.<sup>1</sup> *Affirmed.*

Before Vergeront, P.J., Deininger and Lundsten, JJ.

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<sup>1</sup> The judgment was entered by Reserve Judge Arnold K. Schumann, grounded on the decision rendered by Judge Randy R. Koschnick.

¶1 PER CURIAM. Hack Farms, Inc., appeals a money judgment in favor of plaintiff The Scharine Group, Inc. The issues are whether the circuit court properly allowed Scharine's claim and whether the circuit court properly dismissed Hack's counterclaim, both on summary judgment. We affirm.

¶2 Summary judgment methodology is well established, and need not be repeated here. *See, e.g., Grams v. Boss*, 97 Wis. 2d 332, 338-39, 294 N.W.2d 473 (1980). On review, we apply the same standard as that applied by the circuit court. *Green Spring Farms v. Kersten*, 136 Wis. 2d 304, 315, 401 N.W.2d 816 (1987).

¶3 Scharine's complaint alleged that Hack was obligated to pay Scharine for goods and services on an open account in the amount of approximately \$37,000. This states a claim in contract. Hack answered, denying the substantive allegations of the complaint and asserting a counterclaim. The counterclaim alleged that Scharine had contracted to design and build for Hack the structures and stalls within which to milk and house Hack's cows, and to house the equipment used to harvest milk produced by the cows, but the design and construction were done in a negligent manner that caused various damages to Hack. This also states a claim. We turn to the parties' summary judgment material.

¶4 Scharine argues that the counterclaim was barred by a release Hack signed in separate litigation involving these two parties and others. Scharine submitted copies of certain pleadings and other material from that case, including the release itself. Hack argues that the release covered only the milking equipment, and not the structures and stalls that are the subject of Hack's counterclaim in this case.

¶5 “A release is a contract and is construed as such.” *St. Clare Hosp. v. Schmidt, Garden, Erickson, Inc.*, 148 Wis. 2d 750, 755, 437 N.W.2d 228 (Ct. App. 1989). “[W]hen a contract is plain and unambiguous, a court will construe it as it stands without looking to extrinsic evidence to determine the intent of the parties.” *Rosplock v. Rosplock*, 217 Wis. 2d 22, 31, 577 N.W.2d 32 (Ct. App. 1998). We conclude the release in this case unambiguously includes the subject of the current counterclaim.

¶6 The release covers claims that relate to the “Alpro milking system and other related components” that were purchased by Hack pursuant to a contract dated June 3, 1997. The contract shows that, in addition to specified milking equipment, Scharine would provide “concrete, plumbing, heat & steel.” Hack does not dispute that this phrase covered the structures and stalls that are now the subject of its counterclaim. Instead, Hack argues that the phrase “other related components” in the release describes only the components of the milking equipment, and not the concrete, plumbing, heat, and steel. We disagree. The only reasonable reading of the release is that it includes all the components that were the subject of the 1997 contract. The release covered all claims that Hack made “or could have ... made” in the other case. We see no reason why Hack could not have raised its current counterclaim as a claim in the other case. In addition, the release recited that Hack and Scharine had “amicably settled *all* issues between them.” (Emphasis added.) Because the counterclaim was barred by the release, it was properly dismissed on summary judgment.

¶7 As to Scharine’s claim against Hack on the open account, Hack argues that summary judgment should not have been granted. Hack argues that factual disputes remain regarding \$12,000 that Scharine seeks to collect for a payment Scharine made to an electrical contractor, and regarding a \$6,500 credit

that Scharine allowed for repairs to some of the work Scharine performed. As we read Hack's argument, its "defenses" relating to these items are simply attempts to restate its counterclaim in a way that would allow Hack to set off the counterclaim damages against the payment sought by Scharine. Because we have concluded that the counterclaim is not properly part of this action, these factual disputes are not material and did not preclude summary judgment in Scharine's favor.

*By the Court.*—Judgment affirmed.

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

