

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

February 14, 1996

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. 95-0274

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

JOHN DAGGETT,

Plaintiff-Appellant,

v.

**PAUL GETCHEL and
COLDWELL BANKER
SCHWAB REALTY LTD.,**

Defendants-Respondents.

APPEAL from an order of the circuit court for Winnebago County:
THOMAS S. WILLIAMS, Judge. *Affirmed.*

Before Anderson, P.J., Brown and Snyder, JJ.

PER CURIAM. John Daggett appeals pro se from an order dismissing his complaint against Paul Getchel and Coldwell Banker Schwab Realty Ltd. for damages allegedly caused by Getchel's sale of property owned by Helen Daggett, John's mother. His basic contentions are that the trial court judge had a conflict of interest and his due process rights were violated by the summary judgment procedure. We reject his claims and affirm the order.

At the outset, we find Daggett's brief disorganized and incomprehensible. It contains a great deal of extraneous information and argument pertaining to a guardianship proceeding over his mother.¹ Pro se appellants in a civil action are bound by the same rules that apply to attorneys on appeal and must satisfy all procedural requirements. *Waushara County v. Graf*, 166 Wis.2d 442, 452, 480 N.W.2d 16, 20, *cert. denied*, 506 U.S. 894 (1992). Daggett fails to meet the most basic requirement that his brief make a clear statement of the issues, provide facts necessary to understand them, and present an argument supported by cognizable reasoning. *See id.*; RULE 809.19, STATS. Further, Daggett presents no citations to legal authorities in support of his contentions.

While some leniency may be allowed, we do not have "a duty to walk *pro se* litigants through the procedural requirements or to point them to the proper substantive law." *Graf*, 166 Wis.2d at 452, 480 N.W.2d at 20. Likewise, we are not required to sift through Daggett's brief to craft an argument for him. Rather, we will adopt the potential issues as framed by Getchel.

Getchel, as a sales associate for Coldwell Banker Schwab Realty, Ltd., was retained to sell property belonging to Daggett's mother, Helen. On November 22, 1993, Oshkosh Family, Inc., the court-appointed guardian of Helen, obtained an order from the circuit court in the guardianship proceeding, the Honorable Thomas S. Williams presiding, approving the listing of the properties for sale. At a hearing held on December 29, 1993, Judge William E. Crane confirmed the sale of certain lots in Omro, Wisconsin, for \$35,000. At a June 7, 1994 hearing, Judge Williams confirmed the sale of forty acres of hunting land located in Waushara County for \$25,000.

On June 6, 1994, Daggett commenced this action alleging that Getchel suppressed knowledge of the value of the Omro properties, that the hunting land was sold as vacant property when a house and other buildings

¹ By an order of April 17, 1995, we rejected Daggett's appellant's brief for its failure to contain a coherent statement of the issues and facts and for including extraneous argument regarding the guardianship proceeding. Daggett was given ample time to file an appellant's brief which did not have these shortcomings.

existed on that land, that the hunting land had been sold to and occupied by Daggett, and that he suffered damages by Getchel's act of selling the property without turning proceeds over to him. Getchel was not served with the summons and complaint until June 22, 1994. Getchel filed an answer on July 12, 1994.²

The case was dismissed upon Getchel's motion for summary judgment. When reviewing a trial court's grant of summary judgment, we apply the standards set forth in § 802.08, STATS., in the same manner as the trial court. *Williams v. State Farm Fire and Casualty Co.*, 180 Wis.2d 221, 226, 509 N.W.2d 294, 296 (Ct. App. 1993). The first step requires us to examine the pleadings to determine whether a claim for relief has been stated. *Crowbridge v. Village of Egg Harbor*, 179 Wis.2d 565, 568, 508 N.W.2d 15, 17 (Ct. App. 1993). If so, the inquiry shifts to whether any factual issues exist. *Id.*

We agree with Getchel's analysis that Daggett's complaint failed to state the necessary elements for any remotely conceivable theories of recovery. Those theories include breach of fiduciary duty, breach of contract, conversion, intentional infliction of emotional distress, negligence, malpractice, fraud, conversion or adverse possession. The complaint failed to state a claim for relief and was properly dismissed.

Daggett argues that the trial court had a conflict of interest. He makes references to alleged occurrences in the guardianship proceeding involving his mother. Those matters are not of record here. Nothing suggests that Judge Williams was unable to act impartially with regard to this action.

Daggett's other arguments that his constitutional rights were violated all pertain to matters that took place in the guardianship proceeding. This action is nothing more than an improper attempt to collaterally attack the orders in the guardianship proceeding confirming the sale of the real estate. Daggett did not appear at the hearings to confirm the sales and did not appeal

² We include the date of service and the date the answer was filed so as to dispose of Daggett's claim that Getchel failed to file a timely answer. The record clearly demonstrates that the answer was filed within twenty days.

from those orders. Getchel acted under orders from the court in the guardianship proceeding. Those orders are not subject to collateral attack in a later proceeding. "It is settled law that a judgment of a court which had jurisdiction of the subject matter of the action cannot be impeached and is immune from and not subject to collateral attack, even though patently erroneous." *Werner v. Riemer*, 255 Wis. 386, 403, 39 N.W.2d 457, 466 (1949).

By the Court. – Order affirmed.

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