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DISTRICT II

February 24, 2016

To:

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Circuit Court Judge
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You are hereby notified that the Court has entered the following opinion and order:

2015AP827

SB1 Cedarburg, LLC v. Georgetown Development, LLC
(L.C. # 2010CV702)

Before Neubauer, C.J., Gundrum and Hagedorn, JJ.

SB1 Cedarburg, LLC appeals from a circuit court order quashing its subpoenas to nonjudgment debtor third parties in an attempt to collect upon a judgment against Michael A. Gral. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. WIS. STAT. RULE 809.21 (2013-14).¹ We

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

affirm because *Crown Castle USA v. Orion Construction Group*, 2012 WI 29, 339 Wis. 2d 252, 811 N.W.2d 332, bars such subpoenas.

In an attempt to collect on a money judgment against Michael, the judgment debtor, SB1 served subpoenas for documents upon Donald J. Gral and Donald A. Gral (the Grals). The subpoenas required the Grals to provide documents relating to real and personal property formerly or currently owned by Michael, bank accounts, other account statements, loan and debt agreements, applications, personal financial statements and business or partnership agreements relating to Michael. The Grals moved the circuit court to quash the subpoenas. After a hearing, the circuit court concluded that the WIS. STAT. ch. 816 remedies supplementary to execution do not encompass subpoenas upon nonjudgment debtor third parties like the Grals. SB1 appeals.

We review the circuit court's order quashing the Grals' subpoenas for an erroneous exercise of discretion. See *Lane v. Sharp Packaging Sys., Inc.*, 2002 WI 28, ¶19, 251 Wis. 2d 68, 640 N.W.2d 788.

On appeal, SB1 argues that the WIS. STAT. ch. 816 remedies supplementary to execution permit subpoenas upon nonjudgment debtor third parties like the Grals. In so arguing, SB1 attempts to distinguish *Crown Castle* by arguing that ch. 816 does not specifically preclude subpoenaing third parties to provide documents regarding the debtor's assets or financial condition. SB1's reading of *Crown Castle* is at odds with the opinion itself.

Crown Castle defines a "non-judgment debtor third party" as "an individual or entity that is not a party to the underlying action that produced the judgment, is not the judgment debtor or an individual who may be compelled to testify on behalf of a judgment debtor corporation, and has no corporate affiliation with the judgment debtor." *Crown Castle*, 339 Wis. 2d 252, ¶1 n.2.

The *Crown Castle* court considered the language of WIS. STAT. § 816.06 and determined that the statute cannot be used to compel nonjudgment debtor third parties to provide information about the debtor. *Crown Castle*, 339 Wis. 2d 252, ¶¶19, 22. Therefore, the Grals cannot be compelled to provide information about Michael, and the circuit court properly quashed the subpoenas.

SB1 argues that the silence of WIS. STAT. ch. 816 on the question of whether nonjudgment debtor third parties can be compelled to provide information to a judgment creditor supports its argument that ch. 816 is authority for that power. The *Crown Castle* court explicitly rejected this view. *Crown Castle*, 339 Wis. 2d 252, ¶¶24-25.²

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals

² Because *Crown Castle USA v. Orion Construction Group*, 2012 WI 29, 339 Wis. 2d 252, 811 N.W.2d 332, governs, we need not address SB1's request to take judicial notice of subsequent proceedings in Milwaukee county circuit court involving the same and related parties.