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110 EAST MAIN STREET, SUITE 215  
P.O. BOX 1688  
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880  
TTY: (800) 947-3529  
Facsimile (608) 267-0640  
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**DISTRICT II**

November 22, 2023

To:

Hon. Michael P. Maxwell  
Circuit Court Judge  
Electronic Notice

Monica Paz  
Clerk of Circuit Court  
Waukesha County Courthouse  
Electronic Notice

Gerald L. Crouse Jr.  
Electronic Notice

Ellison Frances Hitt  
Electronic Notice

Andrew C. Ladd  
Electronic Notice

W. Patrick Sullivan  
Electronic Notice

Russell O. Rose  
Electronic Notice

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

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2023AP261

Law Offices of Andrew C. Ladd, LLC v. Russell O. Rose  
(L.C. #2022CV680)

Before Gundrum, P.J., Grogan and Lazar, JJ.

**Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).**

Russell O. Rose appeals from an order dismissing his counterclaim and from a judgment entered against him in favor of the Law Offices of Andrew C. Ladd, LLC (“Ladd”). Based upon our review of the briefs and Record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).<sup>1</sup> We affirm the circuit court in all

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

respects, and because we conclude that the appeal is frivolous, remand for determination of appropriate sanctions, including attorney's fees.

Ladd served as an agreed-upon Special Master/Referee in a family court action between Rose and his former spouse in 2015, with final services rendered as late as 2017. In 2017, Ladd and Rose entered a contract for payment of services previously provided that allowed Rose to make monthly payments of one hundred dollars until his balance was paid in full or until he gained employment. In 2022, Ladd filed a small claims action against Rose for \$4,720.74 in unpaid fees (and interest), alleging that Rose had breached that agreement by refusing to make payments. Rose filed a counterclaim alleging legal malpractice and seeking \$750,000 in damages.

Ladd filed a motion to dismiss this counterclaim as well as a motion for summary judgment. At a hearing on both motions, Rose asserted that his counterclaim, although based on Ladd's alleged negligence, was based on a theory of contract (subject to a six-year statute of limitations) and not tort (subject to a three-year statute of limitations). He admitted that he did not have an attorney-client relationship with Ladd and conceded that he could have brought his claim at any point between November 2017 and November 2020. Rose did not dispute that he entered into a contract for payment with Ladd or that he had stopped making the payments promised.

The circuit court granted both of Ladd's motions. With respect to Rose's counterclaim, the court held that whether it was based in tort or contract, the claim was barred based on the statute of limitations or the lack of an attorney-client relationship, respectively. With respect to

summary judgment, the court concluded that Rose had not put any material fact in dispute with regard to the contract for payment made in 2017. Rose appeals.

Rose’s arguments on appeal, to the extent they can be discerned at all, are not developed. He has cited no legal authority that supports reversal of the circuit court. In fact, he cites several cases that do not exist and are apparently complete fabrications.<sup>2</sup> “We need not consider arguments that are undeveloped and unsupported by citations to legal authority.” *Wal-Mart Real Est. Bus. Trust v. City of Merrill*, 2023 WI App 14, ¶32, 406 Wis. 2d 663, 987 N.W.2d 764; *Dietscher v. Pension Bd. of Emps.’ Ret. Sys.*, 2019 WI App 37, ¶46, 388 Wis. 2d 225, 932 N.W.2d 446.

“This court decides, as a matter of law, whether an appeal is frivolous.” *Kangas v. Perry*, 2000 WI App 234, ¶21, 239 Wis. 2d 392, 620 N.W.2d 429. Pursuant to WIS. STAT. RULE 809.25(3)(c)2., an appeal is frivolous if “[t]he party ... knew, or should have known, that the appeal ... was without any reasonable basis in law or equity and could not be supported by a good faith argument for an extension, modification or reversal of existing law.” We agree with Ladd that Rose’s appeal is frivolous. While we acknowledge that Rose appears pro se, his complete fabrication of case law constitutes bad faith: it is clear evidence of a lack of good-faith argument. See *Willy v. Coastal Corp.*, 855 F.2d 1160, 1172 (5th Cir. 1988) (“Filing mountainous piles of unorganized documents and citing to nonexistent rules of law are precisely the sort of conduct that, under the objective test of Rule 11, could lead a ... court to conclude that the attorney [or party] had not made reasonable inquiry into the law or was seeking to harass

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<sup>2</sup> Moreover, after the Response Brief detailed the nonexistent legal citations made by Rose, Rose does not provide any explanation or defense in his Reply.

or delay.”). We therefore grant Ladd’s request for sanctions, including reasonable attorney’s fees and costs, and remand to the circuit court for a determination of those sanctions.

IT IS ORDERED that the order and judgment of the circuit court are summarily affirmed and the cause is remanded for a determination of sanctions. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*