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**DISTRICT II**

August 28, 2024

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Ann E. Schmidt  
Electronic Notice

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

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2023AP1357

Ann E. Schmidt v. Chris T. Schmidt (L.C. #2016FA333)

Before Neubauer, 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).**

In this postdivorce action, Chris T. Schmidt appeals from a circuit court order requiring him to annually provide his former spouse, Ann E. Schmidt, with his tax returns and related documents until his maintenance obligations end. Chris<sup>1</sup> further takes issue with the court's order rejecting his request to redact his customer and client information from the tax documents. Based upon our review of the briefs and record, we conclude at conference that this case is

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<sup>1</sup> Because the parties have the same last name, we refer to them using their first names to avoid potential confusion.

appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).<sup>2</sup> We summarily affirm.

Chris and Ann were married in 2002. Their divorce was effective as of December 1, 2017. However, due to the parties' desire to attempt to reach agreements as to property division, child support, and maintenance, the circuit court temporarily held those issues in abeyance. Prior to the court's rendering its decision on those issues, the parties submitted several stipulations they had reached for the court's approval. Of relevance to this appeal, one of the stipulations provided as follows: "The parties will annually exchange tax returns, with any/all attachments, for both business and personal tax returns, by May 1 of each year as long as there is a support order."

The circuit court approved the parties' stipulations and incorporated them into its final order governing property division and support. In accepting the stipulations, the court concluded that they were "fair and reasonable." The court ordered Chris to pay child support to Ann until their minor child turned eighteen. It further ordered that Chris pay maintenance to Ann "on an indefinite basis." Additionally, the court determined that its maintenance order is "subject to modification ... in both length and amount."

As pertinent to this appeal, Ann filed a motion with the circuit court in 2023 requesting the court to find Chris in contempt for his failure to comply with the court's 2018 order requiring the annual exchange of tax documents by the parties. Ann filed an affidavit indicating that she had requested Chris' 2021 tax documents on three occasions and had not yet received them. In

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<sup>2</sup> All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

turn, Chris filed a cross-motion and affidavit requesting that Ann be found in contempt for her failure to provide Chris with the required tax documents in 2021.

Following a hearing on the parties' contempt motions, a family court commissioner found that the 2018 divorce judgment required the parties to exchange tax documents for as long as a support order was in effect in the underlying divorce action. The commissioner further found that "a support order," as used in the parties' stipulations and incorporated into the judgment of divorce, includes an order for maintenance. The commissioner ordered the parties to provide each other with their 2021 tax documents, but declined to find either party in contempt. Chris petitioned the circuit court for de novo review of the commissioner's decision.

After holding a de novo hearing, the circuit court reached the same conclusions as the court commissioner. Over Chris' objections that the version of WIS. STAT. § 767.54 (2017-18) in effect at the time of divorce only required an exchange of tax documents when orders for child or family support were in effect, the court concluded that the original divorce order, not the statute, required the parties to exchange tax documents until Chris' maintenance obligations were met. The court's reasoning was as follows: "the order said that [the parties must exchange tax documents] if you provide support and support can be maintenance and/or child support. That's what the original order said." The court further explained that in this situation, where maintenance is modifiable, the parties need access to tax documents in order to determine whether or not to move for modification.

In response to Ann's objections at the de novo hearing that Chris had provided her with heavily redacted tax documents in the past, Chris stated that he gave Ann redacted copies because his tax documents contain his customer and client information. To address Chris'

concerns, the circuit court issued a protective order, drafted by Chris' attorney, which limited both the types of client information Chris had to provide and the manner in which Ann can use such information. Finally, the court found neither party in contempt.

Chris appeals, challenging both the order to exchange documents until maintenance ends and the protective order.

In Wisconsin, “parties to a divorce action may, generally speaking, stipulate to a provision in a divorce judgment even if the court would not otherwise have the statutory authority to order that provision absent the parties’ consent.” *Lawrence v. Lawrence*, 2004 WI App 170, ¶6, 276 Wis. 2d 403, 687 N.W.2d 748. Here, the parties do not dispute, and the circuit court did not question, that the parties could enter into the stipulation at issue and that the court could base its rulings on the stipulation, as properly interpreted. The result is that we are guided not by any statutory scheme, but instead by the specific terms of the written stipulation to which the parties bound themselves and which governed how long they were required to exchange tax documents with each other.

“A stipulation is a contract made in the course of judicial proceedings. Stipulations may relate merely to procedural matters, or they may have all the essential characteristics of mutual contract.” *Ceria M. Travis Acad., Inc. v. Evers*, 2016 WI App 86, ¶14, 372 Wis. 2d 423, 887 N.W.2d 904 (citation omitted); *see also Dickau v. Dickau*, 2012 WI App 111, ¶14, 344 Wis. 2d 308, 824 N.W.2d 142 (“In divorce actions, stipulations are in the nature of a contract.” (citation omitted)). “We apply the rules of contract construction to a divorce judgment ... even when the divorce judgment is based on the parties’ stipulation[.]” *Dickau*, 344 Wis. 2d 308, ¶14 (citation

omitted). “The interpretation of a contract is a question of law which is subject to de novo review.” *Ceria M. Travis Acad., Inc.*, 372 Wis. 2d 423, ¶14 (citation omitted).

Chris’ main argument on appeal is that the circuit court did not have the authority to require him to provide Ann with his tax returns beginning in 2021 when the parties’ minor child aged out and going forward until his maintenance obligations end. In the circuit court and in his briefing on appeal, Chris argues that “support” as used in the stipulation only applies to child support and not to spousal support. Chris relies on WIS. STAT. § 767.54 (2017-18), which required, in relevant part, that parties exchange tax documents when an order for child support or family support is in effect. The statute was amended, effective in 2022, to clarify that parties are required to exchange tax documents when orders of child support, family support, or maintenance are in effect. However, as we stated in the previous paragraph, the issue before us is not one of statutory interpretation. Rather, we interpret the stipulation of the parties, as incorporated into the circuit court’s divorce order.

For reasons set forth below, we conclude that the stipulation, which was presented to the circuit court just prior to its decision on property division, child support, and maintenance, requires the parties to exchange tax documents with each other for as long as any support order is in effect. This includes not only orders for child or family support, but also maintenance orders.

“We presume the parties’ intent is evidenced by the words they chose” to use in a stipulation. *Tufail v. Midwest Hosp., LLC*, 2013 WI 62, ¶26, 348 Wis. 2d 631, 833 N.W.2d 586 (citation omitted). Here, the parties agreed by stipulation to the exchange of tax documents “by May 1 of each year as long as there is a support order.” In Wisconsin, the terms “maintenance” and “spousal support” are used interchangeably. *See, e.g., Gerrits v. Gerrits*, 167 Wis. 2d 429,

438, 482 N.W.2d 134 (Ct. App. 1992) (“Maintenance is grounded in spousal support obligations long recognized in the law[.]”); *LaRocque v. LaRocque*, 139 Wis. 2d 23, 35, 406 N.W.2d 736 (1987) (stating that the goal of maintenance is to provide support to a former spouse at a standard of living “comparable to the one enjoyed during the marriage”); *see also* WIS. STAT. § 948.22(1)(c) & (2) (making long-term failure to pay “spousal support” pursuant to a court order a criminal offense). Thus, an order for maintenance *is* a support order.

Along the same lines, “[w]hen possible, contract language should be construed to give meaning to every word[.]” *Maryland Arms Ltd. P’ship v. Connell*, 2010 WI 64, ¶45, 326 Wis. 2d 300, 786 N.W.2d 15. Had the parties intended for the stipulation to apply only to child support orders, they could have so specified. The fact that the stipulation clearly specified “*child support*” in other provisions of the agreement but used the more general “support” when referring to the exchange of tax documents further bolsters our conclusion that they anticipated the exchange when all orders of support, including spousal support, are in effect.

We also reject Chris’ argument that the circuit court was without authority to order the challenged document exchange. As explained above, parties to a divorce may “stipulate to a provision ... even if the court would not otherwise have the statutory authority to order that provision absent the parties’ consent.” *Lawrence*, 276 Wis. 2d 403, ¶6. However, regardless of Chris’ assertion to the contrary, the circuit court did have statutory authority to revise the maintenance order to provide tax returns both going forward under the statute, and also retroactively. *See* WIS. STAT. § 767.59.

“A circuit court ‘may’ ‘[r]evis[e] and alter’ a divorce maintenance award when the movant demonstrates ‘a substantial change in circumstances warranting the proposed modification.’”

*Jahimiak v. Jahimiak*, 2024 WI App 5, ¶42, 410 Wis. 2d 557, 2 N.W.3d 756 (2023) (alteration in original) (citing WIS. STAT. § 767.59(1c)(a)1., (1f)(a)); *Rohde-Giovanni v. Baumgart*, 2004 WI 27, ¶30, 269 Wis. 2d 598, 676 N.W.2d 452. The phrase “substantial change in circumstances” as used in WIS. STAT. ch. 767 refers to “a change in the financial circumstances of the parties.” *Jahimiak*, 410 Wis. 2d 557, ¶42 (citation omitted). Given that the divorce judgment provides that maintenance is modifiable, the court had the authority under both the parties’ stipulation and § 767.59 to order the parties to exchange returns every year. Without the exchange of annual financial information, including tax returns, neither party would have the ability to determine if and when motions to modify the maintenance award should be filed. Accordingly, we conclude that the circuit court did not err in its interpretation of the parties’ stipulation and the original order requiring an annual exchange of tax documents by the parties until such time as there is no maintenance order in place.

Finally, we reject Chris’ argument that the circuit court erred in prohibiting him from redacting client and customer information from his tax returns before giving the returns to Ann. There is no argument made, nor does the record before us demonstrate, that Chris objected to the protective order in the circuit court. Furthermore, Chris fails to explain on appeal why the protective order was erroneous, or why it was insufficient to address Chris’ concerns about protecting his customer and client information. We will not consider an issue raised for the first time on appeal, particularly where the record does not provide a clear factual underpinning for the argument. See *First Bank (N.A.) v. H.K.A. Enters., Inc.*, 183 Wis. 2d 418, 426 n.10, 515 N.W.2d 343 (Ct. App. 1994); *State v. Kaster*, 148 Wis. 2d 789, 804-05, 436 N.W.2d 891 (Ct. App.

1989).<sup>3</sup>

Therefore,

IT IS ORDERED that the circuit court order is summarily affirmed. *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*

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<sup>3</sup> We do not address Chris' request to vacate a contempt order entered by the circuit court on August 28, 2023. That order postdates the one on appeal here. Chris has not filed an appeal of the August 28 order, and there was no finding of contempt by the court in the order challenged in this appeal.