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**STATE OF WISCONSIN COURT OF APPEALS  
DISTRICT III**

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Court of Appeal File No. 2021AP1563  
St. Croix County Circuit Court No. 2019SC1359  
Judge Edward F. Vlack

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ABase Storage, LLC,

Plaintiff-Respondent,

vs.

Michael Michaud,

Defendant-Appellant.

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**BRIEF COVER**

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Respectfully Submitted,

**GIEBEL & ASSOCIATES, LLC**

ELECTRONICALLY SIGNED BY:

*Kevin E. Giebel*

KEVIN E. GIEBEL; #1011886

P.O. BOX 277

LAKE ELMO, MN 55042

TELEPHONE: (651) 236-0729

EMAIL: [kgiebel@ggwklaw.com](mailto:kgiebel@ggwklaw.com)

Attorneys for Plaintiff-Respondent

Dated: February 15, 2022

**STATE OF WISCONSIN COURT OF APPEALS  
DISTRICT III**

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**BRIEF OF PLAINTIFF-RESPONDENT**

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*Kevin E. Giebel*

KEVIN E. GIEBEL; #1011886

P.O. BOX 277

LAKE ELMO, MN 55042

TELEPHONE: (651) 236-0729

EMAIL: [kgiebel@ggwklaw.com](mailto:kgiebel@ggwklaw.com)

Attorneys for Plaintiff-Respondent

Dated: February 16, 2022

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**STATEMENT OF ORAL ARGUMENT**

ABase Storage, LLC does not believe that oral argument is necessary in this Appeal, and does not request same.

**STATEMENT OF PUBLICATION OF OPINION**

ABase Storage, LLC does not believe that publication of the Court's Opinion in this Appeal is appropriate or necessary, and does not request same.

## ARGUMENT

**MR. MICHAUD'S STATEMENT OF THE ISSUES AND ARGUMENT DO NOT IDENTIFY NOR ARGUE ANY VALID, APPEALABLE ISSUES, INCLUDING UNDER WISCONSIN STATUTE §808.03, AND MUST THEREFORE BE DISMISSED.**

Appeals to the court of appeals.

Wisconsin Statutes §808.03 provides in relevant part:

APPEALS AS OF RIGHT. A final judgment or a final order of a circuit court may be appealed as a matter of right to the court of appeals unless otherwise expressly provided by law. A final judgment or final order is a judgment, order or disposition that disposes of the entire matter in litigation as to one or more of the parties, whether rendered in an action or special proceeding.

Wisconsin Statute §808.03(2021). Each of Mr. Michaud's Issues are facially invalid upon consideration of the appealability of his Issues.

Mr. Michaud Issue No. I:

"The Plaintiff-respondent has made two pleadings before this Court under representation from an individual without a license to practice law. This is in violation of Wisconsin §757.30 and alone is grounds to terminate their ability to succeed in this appeal."

(See Mr. Michaud's Brief at Page 4). Aside from this allegation never having been raised by Mr. Michaud or his legal counsel in the Trial Court, this Court denied Mr. Michaud's very allegation via Letter-Order dated December 16, 2021. (See Presiding Judge Lisa K. Stark's Order dated December 16, 2021, in the Record). As such, this "issue" is no longer part of this Appeal, and this alleged ground for appeal was denied.

Mr. Michaud Issue No. II:

"The circuit court failed to dismiss this case due to failures in complying with 50 USC. §3931(b)(1) and for the Circuit Court's failure to comply with 50 USC. §3931 (b)(3), these both constitute are violations of Defendant-appellant's due process rights as the Court failed to determine if it had the proper jurisdiction."

*Id.* ABase Storage, LLC (“ABase”) believes that Mr. Michaud is referencing 50 U.S. Code § 3931 - Protection of servicemembers against default judgments, which provides in relevant part at subsection (a): **Applicability of Section.** “This section applies to any civil action or proceeding, including any child custody proceeding, in which the defendant does not make an appearance.” 50 U.S.C. §3931(a)(2021).

Mr. Michaud and his legal counsel did not raise this issue in the Trial Court, and therefore can produce no judgment, let alone final judgment. There simply is no documentary record whatsoever of this “issue” being raised in the Trial Court record. In any event, it is undisputed that Mr. Michaud has made all appearances in the Trial Court and these Appellate Court matters; Mr. Michaud’s assertions are without merit and not properly before this Court. This alleged ground for appeal must likewise be denied.

Mr. Michaud Issue No. III:

“The Circuit Court failed to address the warehouse lien Plaintiff-Respondent submitted to Defendant-Appellant and the statutorily deficiencies it has with which Plaintiff-Respondent attempted to enforce.”

(See Mr. Michaud’s Brief at Page 4). Again, Mr. Michaud and his legal counsel failed to raise this issue or otherwise pursue any remedy or relief in the Trial Court involving any “warehouse liens”, and Mr. Michaud cannot produce any final decision (or any decision whatsoever) from the Trial Court as it was never under consideration in the Trial Court. Moreover, at no time did Mr. Michaud or his legal counsel assert any counterclaims whatsoever in the Trial Court. This issue must be accordingly dismissed.

Mr. Michaud Issue No. IV:

“The Circuit Court failed to explain or expand upon in their written judgement how the Wisconsin Consumer Act doesn't apply Wisconsin §421.102(1) states "[it] shall be liberally construed and applied to promote their underlying purposes and policies" the Circuit Court failed in even attempting to explain or expand upon the rational and logic it used to disqualify this case from the protections of Wisconsin §421.”

*Id.* It must be first noted that Mr. Michaud makes absolutely no challenge whatsoever in this appeal to the merits of the Trial Court's decision or whether the Trial Court committed any errors of law or erroneously exercised its discretion in its rulings. Mr. Michaud simply states that the Trial Court failed to "explain or expand" upon its decision. (See Mr. Michaud's Brief at Pages 4 and 9). Although Mr. Michaud provides no authority that a Trial Court is required to make detailed findings or explanations of its decisions, the Trial Court in fact did so in this case. (See Transcript of Oral Decision dated October 13, 2021; Docket Number 75).

On October 13, 2021, Judge Edward F. Vlack issued an Oral decision on the case which was attended by the parties. *Id.* During the hearing, Judge Vlack went into great detail explaining his decision regarding the non-applicability of the Wisconsin Consumer Act to the case, despite Mr. Michaud and his legal counsel making no request or motion for any formal findings or conclusions of law for the decision. For purposes of brevity, some of the Trial Court's detailed findings and explanations specific to the non-applicability of the Wisconsin Consumer Act include:

- Line 14 -- 4, Pages 5 - 6: (The agreement was for rental space to store vehicles);
- Lines 5 -- 24, Page 6: (The agreement is not a consumer lease);
- Lines 3 -- 24, Page 7: (The agreement was not consumer sale);
- Lines 23 -- 20, Pages 7 -- 8: (The agreement was not a loan or open-ended credit plan);
- Lines 24 -- 2, Pages 10 -- 11: (The leasing of the property was not a service); and
- Lines 10 -- 13, Page 10: ("I tried to go through my notes as best as I could and all the provisions that I thought may apply to the questions whether or not the consumer act applied in this case").

*Id.* At the conclusion of Judge Vlack's comprehensive analysis and findings, he proceeded to conclude at numerous places in his findings that the Wisconsin Consumer Act did not apply. (See, e.g., Lines 21 -- 23, Page 8 ( "[a]nd so I'm of the opinion that the Wisconsin Consumer Act does not apply to this agreement").

In short, Mr. Michaud is mistaken to allege that the Trial Court did not "explain" or "expand" upon his decision regarding the Wisconsin Consumer Act -- quite the contrary. Again, Mr. Michaud's alleged grounds for appeal alleging that the Trial Court failed to "explain" or expand" upon his decision must be dismissed.

Mr. Michaud Issue No. V:

“Judge Edward Vlack showed contempt to the Supreme Court of Wisconsin in gross violations of SCR 70.36, which states in part that “every judge of a circuit court shall decide each matter submitted for decision within 90 day of the date on which the matter is submitted to the judge in final form, exclusive of the time the judge has been actually disabled by sickness.” This matter was tried on June 17th, 2020 and the last brief was submitted on July 15th, 2020, an oral ruling was issued on May 24th, 2021 after being delayed from a May 20th, 2021 hearing, a written order and decision was issued on September 1st, 2021 after 413 days.

Circuit Court has not made any ruling on this despite complaint being submitted on September 1st, 2021, a complaint has also been submitted to the Wisconsin Judicial Commission.”

(See Mr. Michaud’s Brief and Appendix at Page 4).

Mr. Michaud’s “claims” in this regard are misplaced in many regards. While the issue as phrased is vague and unclear, it appears that Mr. Michaud has chosen to issue multiple “complaints” seeking some unspecified form of remedy from various officers, persons, officials, commissions and tribunals to hold Judge Vlack in some form of “contempt” *Id.* ABase is unsure of the status of those efforts, but respectfully states that it is not a party to those proceedings and this Issue is not properly before this Court. It must be noted that Mr. Michaud did not pursue this issue with Judge Vlack until well after the Trial Court’s ruling. In any event, this is not an appealable issue under Wisconsin Statutes §808.03, and must be dismissed. Furthermore, As this Court noted in its December 16, 2021 written decision, “whether the circuit court judge violated any standards of judicial conduct is a separate matter from whether the circuit court committed any errors of law or erroneously exercised its discretion in its ruling.” (See Presiding Judge Lisa K. Stark’s Written Decision dated December 16, 2021, in the Record). Mr. Michaud’s Issue No. 5 was therefore denied.

**CONCLUSION**

For all of the foregoing reasons, ABase respectfully requests that Michael Michaud’s appeal be denied in all respects, and that this Court grant ABase’s Motion to Strike as set forth below.



Respectfully Submitted,

**GIEBEL & ASSOCIATES, LLC**

ELECTRONICALLY SIGNED BY:

Kevin E. Giebel

KEVIN E. GIEBEL; #1011886

P.O. BOX 277

LAKE ELMO, MN 55042

TELEPHONE: (651) 236-0729

EMAIL: kgiebel@ggwklaw.com

Attorneys for Plaintiff-Respondent

Dated: February 16, 2022

### **CERTIFICATION**

I hereby certify that this Brief conforms to the rules contained in s. 809.19 (8) (b), (bm), and (c) for a brief. The length of this brief is 9 pages and 1,550 words.

**GIEBEL & ASSOCIATES, LLC**

ELECTRONICALLY SIGNED BY:

Kevin E. Giebel

KEVIN E. GIEBEL; #1011886

P.O. BOX 277

LAKE ELMO, MN 55042

TELEPHONE: (651) 236-0729

EMAIL: kgiebel@ggwklaw.com

Attorneys for Plaintiff-Respondent

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