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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  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)

**DISTRICT II**

March 13, 2024

To:

Hon. Michael S. Gibbs  
Circuit Court Judge  
Electronic Notice

Charles J. Hertel  
Electronic Notice

Tara Berry  
Clerk of Circuit Court  
Winnebago County Courthouse  
Electronic Notice

James D. Miller  
Electronic Notice

Nathan P. Olson  
Electronic Notice

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

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2023AP619

Acquire Restoration, Inc. v. Jamyi Witch (L.C. #2019CV825)

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).**

Jamyi Witch appeals from an order granting a judgment in favor of Acquire Restoration, Inc., entered after a court trial. Witch contends the trial court erred in granting a judgment against her in the amount of \$57,793.47 and dismissing her counterclaim. Acquire Restoration did not file a responsive brief. 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> Based on Acquire Restoration's failure to file a responsive brief, we reverse the

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

order of the trial court and remand the matter for further proceedings consistent with this opinion.

Acquire Restoration sued Witch alleging that she failed to pay for home restoration and repair work performed by the contractor at her home. Witch filed counterclaims alleging, among other things, multiple violations of the home improvement trade practices code, WIS. ADMIN. CODE ch. ATCP 110 (Mar. 2023). The parties tried their claims to the court, after which it concluded that Witch owed Acquire Restoration \$56,955.12 for unpaid services and interest, along with statutory attorney fees and costs that increased the total award to \$57,793.47. The court denied Acquire Restoration's request for actual attorney fees and also dismissed Witch's counterclaims. This appeal follows.

On appeal, Witch contends that the trial court erred in dismissing her counterclaims alleging various violations of the home improvement trade practices code. She seeks reversal of the court's order, a determination that she proved the code violations, and a remand for a determination of damages and attorney fees.

Acquire Restoration has not filed a brief responding to Witch's arguments. *See Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 90 Wis. 2d 97, 108-09, 279 N.W.2d 493 (Ct. App. 1979) (unrefuted arguments are deemed conceded). On October 3, 2023, we informed Acquire Restoration that its responsive brief was delinquent. On October 13, 2023, we warned Acquire Restoration that if it failed to file a responsive brief, we could exercise our discretion and summarily reverse the trial court provided that we determine that it had abandoned the appeal. *See Raz v. Brown*, 2003 WI 29, ¶18, 260 Wis. 2d 614, 660 N.W.2d 647; *see also State ex rel. Blackdeer v. Township of Levis*, 176 Wis. 2d 252, 259-60, 500 N.W.2d 339 (Ct. App.

1993) (summary reversal is appropriate sanction for respondent's violation of briefing requirements). Despite this admonition, Acquire Restoration filed a letter on October 16, 2023, stating its agreement with the trial court's decision, but declining to file a responsive brief.

We decline to address the merits of the appeal under these circumstances. We conclude only that Acquire Restoration has abandoned the appeal and that summary reversal is appropriate. Accordingly, we reverse the order of the trial court and remand the matter for further proceedings consistent with this opinion.

Upon the foregoing reasons,

IT IS ORDERED that the order of the trial court is summarily reversed and the cause remanded for further proceedings consistent with this opinion, pursuant to 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*