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DISTRICT IV

April 10, 2014

To:

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

2013AP627

Timmy L. Jordan v. Hooters of America LLC and LIRC
(L.C. # 2012CV754)

Before Lundsten, Sherman and Kloppenburg, JJ.

Timmy Jordan appeals an order dismissing Jordan's racial discrimination complaint against Hooters of America, LLC. 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 (2011-12).¹ We summarily affirm.

Jordan filed a public accommodation discrimination complaint against Hooters with the Department of Workforce Development Equal Rights Division. Jordan claimed that Hooters

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

discriminated against Jordan based on his race. Jordan asserted the following in the discrimination complaint: Jordan who is African-American, placed personal belongings on the bar at Hooters and told a Hooters employee that he was going to the restroom and would return. When Jordan returned from the restroom, his belongings had been moved and two Caucasian males were sitting in Jordan's place. Jordan then sat at a table for at least seventy minutes before he was approached by a server, despite numerous new Caucasian customers receiving service. The Equal Rights Division dismissed Jordan's complaint and the Labor and Industry Review Commission affirmed the Equal Rights Division's decision.

Jordan petitioned for review in the circuit court. The circuit court held a status conference on December 19, 2012. Jordan appeared, but Hooters did not. The court set a trial date of January 24, 2013. Prior to the scheduled trial date, Hooters moved for summary judgment. The circuit court scheduled a summary judgment hearing for January 17, 2013. Jordan did not respond to Hooters' motion for summary judgment or appear at the January 17 hearing.

The court held another summary judgment hearing on January 24, 2013, to give Jordan an opportunity to explain why he did not appear on January 17. Jordan stated that he received the notice of the hearing from counsel for Hooters but that he did not read it. The court determined that Jordan was in default, and also that there was no disputed issue of material fact precluding summary judgment.

Jordan's brief on appeal fails to develop any coherent argument that applies relevant legal authority to the facts of record. Rather, Jordan simply complains that the circuit court itself did not send Jordan notice of the January 17, 2013 hearing, in addition to the notice Jordan was sent

by counsel for Hooters. Jordan also complains that he was not provided a transcript of the December 19, 2012 status conference. These statements are insufficient to warrant a response because, to adequately address Jordan's arguments, we would have to first develop them for him. *See State v. Pettit*, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct. App. 1992). "We cannot serve as both advocate and judge." *Id.* We decline to address Jordan's arguments because they lack factual citations and legal reasoning. *Id.* at 646-47. We affirm the circuit court on that basis.

We also note briefly that, as best we can understand Jordan's arguments, those arguments lack merit. It appears that Jordan is asserting that he did not have proper notice of the summary judgment hearing because notice was sent by opposing counsel rather than the circuit court. However, Jordan does not dispute that he received Hooters' summary judgment material and failed to file anything in opposition to summary judgment or to appear at the scheduled hearing. Additionally, Jordan argues that he needed the transcript of the December 19, 2012 status hearing to establish that Hooters did not appear at that hearing and that the court set a trial date. However, the record contains the minutes of the December 19, 2012 hearing, which establish that Hooters did not appear at that hearing and the court set a trial date. We discern nothing in Jordan's assertions that would warrant reversal of the circuit court decision.

Therefore,

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

Diane M. Fremgen
Clerk of Court of Appeals