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**DISTRICT IV**

October 9, 2014

To:

Hon. Mark L. Goodman  
Circuit Court Judge  
112 S. Court St., Branch II  
Sparta, WI 54656

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

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2013AP2169                      Wells Fargo Bank, N.A. v. Nathan S. Graewin (L.C. # 2012CV328)

Before Blanchard, P.J., Lundsten and Kloppenburg, JJ.

Nathan Graewin and Theresa Langton-Graewin (the "Graewins") appeal a judgment of foreclosure, entered on summary judgment against them and in favor of Wells Fargo Bank, N.A. 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).<sup>1</sup> We summarily affirm.

As a threshold matter, we note that many of the arguments in the Graewins' briefs are undeveloped or unsupported by adequate factual and legal citations, as required by the Rules of Appellate Procedure. *See* WIS. STAT. RULE 809.19(1)(d) and (e) (setting forth the requirements

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

for briefs). The depth of our discussion below is therefore proportional to the development—or lack of development—of each issue. Any arguments in the Graewins’ briefs that we do not address are either patently meritless or inadequately developed. See *Libertarian Party of Wisconsin v. State*, 199 Wis. 2d 790, 801, 546 N.W.2d 424 (1996) (an appellate court need not discuss arguments that lack “sufficient merit to warrant individual attention”); *Dieck v. Unified School Dist. of Antigo*, 157 Wis. 2d 134, 148 n.9, 458 N.W.2d 565 (Ct. App. 1990) (we need not address arguments unsupported by record citations).

The Graewins argue that the copies of the note and mortgage that Wells Fargo filed as attachments to the complaint, and later as attachments to the affidavit of Amanda Weatherly, are not true and correct copies. However, the Graewins filed an answer in which they admitted that Wells Fargo was the holder of the note and mortgage and they did not deny that the copies of those documents attached to the complaint were true and correct. Averments in a pleading are admitted when not denied in a responsive pleading. WIS. STAT. § 802.02(4). Having admitted that Wells Fargo is the holder of the note and mortgage and having failed to deny that the copies of those documents filed with the court were correct, the Graewins cannot now argue otherwise.

The Graewins also argue that Wells Fargo violated the Truth in Lending Act by failing to present them with copies of the mortgage, note, and notice of their right to cancel. The Graewins further assert that Wells Fargo promised them a loan modification, but then never responded to their proposal, in violation of an oral contract. Their brief fails, however, to develop these arguments by applying relevant legal authority to facts established in the record, and we reject the arguments on that basis. “A party must do more than simply toss a bunch of concepts into the air with the hope that either the [circuit] court or the opposing party will arrange them into viable and fact-supported legal theories.” *State v. Jackson*, 229 Wis. 2d 328, 337, 600 N.W.2d

39 (Ct. App. 1999). Consequently, this court need not consider arguments that are either unsupported by adequate factual and legal citations or otherwise undeveloped. See *Dieck*, 157 Wis. 2d at 148 n.9 (unsupported factual assertions); *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (undeveloped legal arguments). While we make some allowances for the failings of parties who, as here, are not represented by counsel, “[w]e cannot serve as both advocate and judge,” *Pettit*, 171 Wis. 2d at 647, and will not scour the record to develop viable, fact-supported legal theories on the appellant’s behalf, *Jackson*, 229 Wis. 2d at 337. Here, the Graewins have failed to develop their arguments about the Truth in Lending Act and breach of oral contract legally or to support them factually. Therefore, we reject the arguments on that basis.

IT IS ORDERED that the judgment is summarily affirmed under WIS. STAT. RULE 809.21(1).

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*