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**WISCONSIN COURT OF APPEALS**

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**DISTRICT III**

January 13, 2015

To:

Hon. Dee R. Dyer  
Circuit Court Judge  
Outagamie County Courthouse  
320 S. Walnut Street  
Appleton, WI 54911

Lonnie Wolf  
Clerk of Circuit Court  
Outagamie County Courthouse  
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Deborah Lynn Zeratsky  
207 Emily Way  
Hortonville, WI 54944

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

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2014AP1834

Daniel Wesley Zeratsky v. Home Options Ltd. Partnership  
(L. C. #2014SC708)

Before Hoover, P.J.<sup>1</sup>

Home Options Ltd. Partnership (Home Options) appeals a circuit court judgment awarding \$7,450.00, plus court costs, to Daniel and Deborah Zeratsky (the Zeratskys). Home Options argues, inter alia, that the circuit court lacked personal jurisdiction over it and, therefore, the judgment must be vacated as void. Based upon our review of the brief and record, we conclude that this case is appropriate for summary disposition and we summarily reverse. *See* WIS. STAT. RULE 809.21.

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2). All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

The Zeratskys brought a small claims action against Metro Properties Trust<sup>2</sup> seeking the return of their option-to-purchase fee of \$7,450.00. The Zeratskys alleged the land they leased with an option to purchase was misrepresented by the owners with respect to the dimensions of the lot. The court commissioner dismissed in favor of Metro Properties Trust, finding no boundary dispute existed. The Zeratskys appealed. The circuit court conducted a de novo trial, during which it granted an amendment denominating Home Options as the proper defendant. The circuit court determined a boundary dispute existed and that Home Options had negligently misrepresented otherwise. The court awarded damages to the Zeratskys. Home Options now appeals.

Home Options set forth a number of arguments on appeal that required a response. For example, Home Options asserted the circuit court lacked personal jurisdiction over it because Home Options was not denominated in the summons or complaint, in violation of Wisconsin's requirement of strict adherence to the procedural elements of service. *See Mech v. Borowski*, 116 Wis. 2d 683, 685-86, 342 N.W.2d 759 (Ct. App. 1983). All arguments and allegations went unrefuted by the Zeratskys, who failed to file a response brief.<sup>3</sup> Their failure to respond

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<sup>2</sup> The initial action was commenced against Metro Properties Trust, an entity that collected the rental payments for the property in question. Home Options is a limited partnership that owned the property.

<sup>3</sup> A December 3, 2014 order notified the Zeratskys that they were delinquent in filing their brief. They were given an additional five days to either file and serve their brief or request an extension. The order warned that the failure to file a brief or request an extension with good cause shown could result in summary reversal under WIS. STAT. RULE 809.83(2). The Zeratskys submitted a letter indicating they would not be filing a brief. If, in fact, they intended the letter to serve as their responsive brief, it is wholly insufficient and does not comply with our appellate rules for briefing. *See* WIS. STAT. RULE 809.19(3)(a)2.; WIS. STAT. RULE 809.19(1)(e); *see also Waushara Cnty. v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992) (Pro se litigants are "bound by the same rules that apply to attorneys on appeal").

accordingly relinquished their arguments in favor of Home Options' arguments. *See Charolais Breeding Ranches, Ltd. v. FPC Secs. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979) (arguments not refuted are deemed admitted).

THEREFORE, IT IS ORDERED that the judgment is summarily reversed pursuant to WIS. STAT. RULE 809.21.

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