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DISTRICT IV

May 12, 2022

To:

Hon. Frank D. Remington
Circuit Court Judge
Electronic Notice

Walter R. Stewart
Electronic Notice

Carlo Esqueda
Clerk of Circuit Court
Dane County Courthouse
Electronic Notice

Mary Halverson Wagner
417 W. Carroll St.
Portage, WI 53901

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

2021AP273

W.R. Stewart & Associates, S.C. v. Mary Halverson Wagner
(L.C. # 2018CV3027)

Before Blanchard P.J., Kloppenburg, and Nashold, 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).

Mary Halverson Wagner appeals a money judgment. 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 (2019-20).¹ We affirm.

Plaintiff W. R. Stewart & Associates, S.C., brought this case against Wagner. It alleged that Wagner retained the firm to provide legal services, that the firm did so, and that Wagner

¹ All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

failed to pay the firm in accord with their contract. The circuit court granted summary judgment in favor of the firm.

Wagner’s brief on appeal contains several complaints about the circuit court proceedings in this matter. The brief fails, however, to develop coherent arguments that apply relevant legal authority to the facts of record, and instead relies largely upon conclusory assertions. “A party must do more than simply toss a bunch of concepts into the air with the hope that either the trial 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).

As a result, this court need not consider arguments that are unsupported by adequate factual and legal citations or are otherwise undeveloped. See *Grothe v. Valley Coatings, Inc.*, 2000 WI App 240, ¶6, 239 Wis. 2d 406, 620 N.W.2d 463, *abrogated on other grounds by Kissack Living Tr. v. American Transmission Co.*, 2020 WI App 60, 394 Wis. 2d 188, 949 N.W.2d 883 (lack of record citations); *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, Wagner has failed to develop her arguments legally or to support them factually. In addition, she did not file a reply brief to address the arguments the firm made in its brief in support of the judgment. See *United Coop. v. Frontier FS Coop.*, 2007 WI App 197, ¶39, 304 Wis. 2d 750, 738 N.W.2d 578 (appellant’s failure to respond in reply brief to an argument made

in response brief may be taken as a concession). Therefore, we affirm the circuit court on these bases.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed under WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals