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DISTRICT IV

June 13, 2024

To:

Hon. William V. Gruber
Circuit Court Judge
Electronic Notice

Cindy Hamre Incha
Clerk of Circuit Court
Jefferson County Courthouse
Electronic Notice

Thomas Richard Loonan
Electronic Notice

Chad M. Johnstone
214 S. Kranz Avenue
P.O. Box 125
Jefferson, WI 53549

Jan M. Johnstone
Electronic Notice

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

2023AP1720

Old National Bank v. Chad M. Johnstone (L.C. # 2023CV24)

Before Blanchard, Graham, 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).

Appellants Chad M. Johnstone and Jan M. Johnstone, pro se, appeal a summary judgment of foreclosure entered by the circuit court against the appellants and in favor of the respondent, Old National Bank. After reviewing the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).¹ We summarily affirm.

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

The appellants' brief asserts objections and conclusions of various kinds about the circuit court proceedings in this matter. Although not clear from the briefing, the appellants' central argument may be that reversal is required because the record reveals that the respondent does not possess the original promissory note that was executed by the appellants and secured by a mortgage. The appellants fail, however, to develop coherent arguments that apply relevant legal authority to the facts of record. "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). 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 (lack of record citations), *abrogated on other grounds by Wiley v. M.M.N. Laufer Family Ltd. P'ship*, 2011 WI App 158, 338 Wis. 2d 178, 807 N.W.2d 236; *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 appellants' behalf, *Jackson*, 229 Wis. 2d at 337.

Here, the appellants have failed to develop their arguments legally or to support them factually, and we will not attempt to construct a supported argument on their behalf. In addition, the appellants fail in their reply brief to respond in any meaningful way to the arguments made in the respondent's brief, including the respondent's assertion that it is in possession of the original

promissory note and entitled to enforce it.² Propositions asserted by a respondent on appeal and not disputed by an appellant in the reply brief are taken as admitted. *See Schlieper v. DNR*, 188 Wis. 2d 318, 322, 525 N.W.2d 99 (Ct. App. 1994).

In sum, we reject the appellants' arguments as undeveloped, and we affirm the circuit court on that basis.

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

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

Samuel A. Christensen
Clerk of Court of Appeals

² We note one shortcoming in the respondent's brief. The brief provides citations to its appendix without providing parallel citations to the record itself. The respondent's counsel is reminded of counsel's obligation to cite directly to the record in future submissions, as required under WIS. STAT. RULE 809.19(1), (3)(a)2. *See United Rentals, Inc. v. City of Madison*, 2007 WI App 131, n.2, 302 Wis. 2d 245, 733 N.W.2d 322. It is not necessary, but it can be quite helpful, for parties to provide parallel citations to both the record location and the corresponding appendix location. But what is mandatory are citations to the record, which did not occur here.