

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

October 21, 1999

Marilyn L. Graves  
Clerk, Court of Appeals  
of Wisconsin

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. **98-3367**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**DALE D. MALUEG,**

**PLAINTIFF-APPELLANT,**

**V.**

**GREGORY D. MALUEG AND SUSAN MALUEG,**

**DEFENDANTS-RESPONDENTS.**

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APPEAL from a judgment of the circuit court for Rock County:  
JOHN W. ROETHE, Judge. *Affirmed and cause remanded.*

Before Eich, Vergeront and Deininger, JJ.

¶1 PER CURIAM. Dale Malueg appeals a judgment dismissing his complaint against Gregory and Susan Malueg. Dale and his brother Gregory formed the Malueg Family Farm LLC in 1995, for the purpose of purchasing and operating their father's farm. Dale withdrew from the company in 1996, and almost two years later, he commenced this action to wind up and liquidate the

LLC. The trial court dismissed the action, holding that Dale, by contract, gave up all rights with regard to the LLC when he withdrew from it in January 1996. Gregory and Susan contend that the appeal of that decision is frivolous. We agree and therefore affirm. We also grant the motion for costs and reasonable attorney fees under RULE 809.25(3), STATS.

¶2 After Dale withdrew, Susan signed a certificate of ownership declaring herself a member of the LLC. Gregory and Susan subsequently obtained ownership of the farm by quitclaim deed from the LLC. They then reimbursed Dale for the \$1200 he had contributed to the LLC's land contract payments for the farm in 1995.

¶3 On appeal, Dale presents a detailed argument as to why Gregory and Susan's actions after Dale withdrew violated various provisions of ch. 183, STATS., governing the operation of an LLC. What he does not meaningfully address, however, is the trial court's determination that he agreed to waive the right to raise those issues when he withdrew from the LLC. RULE 809.25(3)(c)(2), STATS., provides that an appeal is frivolous if the party or the party's attorney knew, or should have known, that the appeal lacked any reasonable basis in law or equity and could not be supported by a good faith argument to extend, modify or reverse existing law. Here, Dale and/or his attorney knew or should have known that he could not succeed on this appeal without a developed and supported argument that the trial court erred on this threshold issue. His failure to address it, other than by briefly identifying it as an issue, entitles Gregory and Susan to the fees and costs allowed under RULE 809.25(3), STATS. *See Reiman Assoc., Inc. v. R/A Adver., Inc.*, 102 Wis.2d 305, 306 n.1, 306 N.W.2d 292, 294 (Ct. App. 1981) (concluding that an issue raised but not briefed or argued is deemed abandoned).

¶4 We remand the case to the trial court for a determination of the amount and allocation of the costs and fees awarded in this opinion.

*By the Court.*—Judgment affirmed and cause remanded.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.

