COURT OF APPEALS
DECISION
DATED AND FILED

June 14, 2017

Diane M. Fremgen
Clerk of Court of Appeals

Appeal No. 2014AP2781 **Cir. Ct. No. 2012CV5927**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

JP MORGAN CHASE BANK NATIONAL ASSOCIATION,

PLAINTIFF-RESPONDENT,

V.

MARGARET BACH,

DEFENDANT-APPELLANT,

JP MORGAN CHASE BANK, NA, STATE OF WISCONSIN DEPARTMENT OF REVENUE AND SANDRA BUTTS,

DEFENDANTS.

APPEAL from an order of the circuit court for Milwaukee County: DANIEL A. NOONAN, Judge. *Affirmed*.

Before Neubauer, C.J., Gundrum and Hagedorn, JJ.

¶1 HAGEDORN, J. This case arises out of a mortgage foreclosure action brought by JP Morgan Chase Bank National Association against Margaret Bach. Bach responded to this action with counterclaims including breach of contract, promissory estoppel, and violation of the Fair Debt Collection Practices Act (FDCPA). The circuit court granted her counterclaim for promissory estoppel, but denied her breach of contract, FDCPA, and other claims. On appeal, Bach raises multiple challenges to the circuit court's decision. We affirm.

BACKGROUND

¶2 In April 2004, Bach executed a fixed-rate note secured by a mortgage on her home. The mortgage was subsequently assigned to Chase. Bach defaulted on her payment obligations in November 2010, and Chase sent her a notice of intent to foreclose.

¶3 Bach requested a loan modification in fall 2011, and Chase sent her a letter on November 10, 2011 that detailed a Trial Period Payment Plan for a permanent loan modification. The letter outlined a schedule of three trial-period payments of $625.90 due on December 1, 2011, January 1, 2012, and February 1, 2012, and explained that Chase would "not conduct a foreclosure sale" at that time. It further explained that Bach "may be eligible for a modification," and "[a]fter all trial period payments are timely made, your mortgage will be permanently modified." It is undisputed that the letter did not specify the terms of the permanent modification that would be offered upon successful completion of the trial period. It merely provided that "[o]nce you make all of your trial period payments on time, we will send you a Loan Modification Agreement detailing the terms of the modified loan." The letter also warned that "[i]f you do not make the specified trial period payments in full in the month when due, you will not qualify

for a permanent modification." Bach failed to make the first two trial-period payments on time.[1]

¶4 On January 23, 2012—after Bach had missed the first two trial period payments—Chase sent another letter implying that she could nevertheless qualify for a permanent modification. It warned that "[y]our eligibility for a loan modification is at risk" and advised Bach to "submit the past due trial payment immediately" or "your Trial Period Plan will be cancelled and your modification will be denied." On January 30, 2012, Bach sent Chase a check for $1877.70 (the amount of all three trial period payments) with her mortgage account number written on it. Bach wrote "loan modification confirmed" in the memo section of the checks. Bach continued to send monthly payments of $625.90, the amount of the trial period payments.

¶5 On May 30, 2012, however, Chase filed a complaint to foreclose on Bach's mortgage. Chase moved for summary judgment, and, after a hearing, the court denied Chase's motion and allowed Bach to supplement the pleadings with counterclaims, which Bach did.[2] In her counterclaims, Bach alleged that Chase told her to fall behind in her mortgage to qualify for loan modification and then went back on its promise to modify her loan. She claimed this constituted a breach of contract, or in the alternative, that promissory estoppel required enforcement of Chase's promise to modify her loan. Bach also brought a claim for unjust enrichment and a "tort claim for money damages for all [Bach] lost in

[1] At the very least, Bach does not dispute that she missed the payment deadlines.

[2] Bach filed a counterclaim prior to the summary judgment hearing, which Chase argued was untimely filed. The circuit court did not explicitly decide whether the initial counterclaim was properly filed, but allowed Bach to file an amended counterclaim after the hearing.

defending this suite [sic], including punitive damages." Bach further asserted that Chase violated the FDCPA and Wisconsin Consumer Act (WCA) by calling her "repeatedly at her home and on her cell phone even after telling the bank representative not to." Bach's final counterclaim was for negligent infliction of emotional distress. As a remedy, Bach requested that the circuit court "[e]nforce the prior loan modification, which was cancelled in breach of the contract," award compensatory damages, and award attorney's fees for the time she spent defending the suit.

¶6 Chase filed a motion to dismiss these counterclaims, and the court held a hearing. During the hearing, Bach withdrew her "tort claim for money damages" and her WCA claim. Bach also agreed that her unjust enrichment claim should be dismissed without prejudice. After argument, the court dismissed Bach's negligent infliction of emotional distress claim because Bach failed to allege that Chase breached any standard of care. The court denied Chase's motion to dismiss the breach of contract claim, the equitable estoppel claim, and the FDCPA claim and allowed these claims to go to trial.

¶7 Bach did not object or renew her request for a jury trial, and the case proceeded to a bench trial on August 21, 2014. The trial consisted of testimony by Bach and a Chase representative. After trial, the circuit court concluded that Chase did not breach any contract with Bach. It reasoned that "the January 23, 2012 letter did not present an offer sufficient for purposes of a contract, and even if it were sufficient, the contract would be void as violating the statute of frauds." At most, the letter was "kind of an agreement to agree." The court also dismissed Bach's FDCPA claim based on its factual finding that Chase's calls did not violate the FDCPA and its conclusion that the FDCPA did not apply to Chase. Though there was no enforceable contract, the court did find

in Bach's favor on the promissory estoppel claim. It held that the January 23 letter extended the time for Bach to make payments under the Trial Period Payment Plan, and Bach met these revised requirements. Thus, Chase was estopped from foreclosing, and the court ordered Chase to offer Bach the loan modification it would have offered absent the foreclosure. The court did not award any additional damages. It concluded that "Ms. Bach has provided no evidence of any costs and expenses with regard to her reliance on the promised loan modification" and therefore was "not entitled to any reliance damages or any other damages related to her promissory estoppel claim." The court further noted that "by residing in her home for the past several years without making any payments she has derived an equitable benefit equivalent to at least a fair market rent." Hewing to the American Rule—where a litigant is only entitled to attorney's fees if a contract or statute provides for such an award—the court denied Bach's request for attorney's fees because no contract or statute provided for fee shifting. Bach appeals from this judgment.

DISCUSSION

¶8 Bach takes issue with numerous aspects of the circuit court's ruling: the circuit court's denial of her breach of contract and FDCPA claims, the circuit court's denial of her request for a jury trial, and the circuit court's decision not to award damages and attorney's fees.

Breach of Contract

¶9 Bach argues that the loan modification offer—and specifically the January 23 letter—constitutes a contract that Chase breached.[3] However, because Bach fails to contest the circuit court's ruling that the January 23 letter did not satisfy the statute of frauds, we treat this argument as conceded.

¶10 The circuit court ruled that Bach's breach of contract claim failed for two independent reasons: (1) the "January 23, 2012 letter" was not an offer and (2) even if it were an offer, "the contract would be void as violating the statute of frauds." Although Bach spends a great deal of time criticizing the court's conclusion on the first point, she fails to offer any objection or argument to the second. We will "not abandon our neutrality to develop arguments for the parties," especially "when an appellant ignores the ground upon which the trial court ruled and raises issues on appeal that do not undertake to refute the trial court's ruling." ***Munger v. Seehafer***, 2016 WI App 89, ¶42, 372 Wis. 2d 749, 890 N.W.2d 22 (citation omitted). In such cases, we may treat the failure to challenge a portion of the circuit court's ruling as a concession that the court's ruling was correct. *See* ***West Capitol, Inc. v. Village of Sister Bay***, 2014 WI App 52, ¶49, 354 Wis. 2d 130, 848 N.W.2d 875 (explaining that "[f]ailure to address the grounds on which the circuit court ruled constitutes a concession of the ruling's validity"); *see also* ***Schlieper v. DNR***, 188 Wis. 2d 318, 322, 525 N.W.2d 99 (Ct. App. 1994) (explaining that "[t]his court has held that respondents cannot

[3] Bach also attempts to expand her breach of contract claim to include an alleged agreement by Chase to discharge both her first and second mortgage. She did not include this claim in her counterclaim so we will not address it. ***State v. Reese***, 2014 WI App 27, ¶14 n.2, 353 Wis. 2d 266, 844 N.W.2d 396 ("This court need not address arguments that are raised for the first time on appeal.").

complain if propositions of appellants are taken as confessed which respondents do not undertake to refute," and "[w]e think the same holds true when an appellant ignores the ground upon which the trial court ruled and raises issues on appeal that do not undertake to refute the trial court's ruling"). In light of Bach's failure to address this fundamental aspect of the circuit court's ruling—or develop any argument on that point—we will treat her silence as a concession that the January 23 letter did not satisfy the statute of frauds. Therefore, her breach of contract claim fails as a matter of law.

FDCPA

¶11 Bach next argues that we should reverse the circuit court's decision on her FDCPA claim because the court erroneously found that Chase did not violate the FDCPA.[4] She makes conclusory assertions that "the facts of the case" prove that Chase made abusive phone calls, failed to stop calling her when asked, made false representations, and used unfair and unconscionable means to collect its debt. But the circuit court found as a factual matter that "the greater weight of credible evidence presented does not establish that Chase's acts violated the FDCPA." As with many of her arguments, Bach pays little heed to our deferential standard of review on fact questions and asks us to substitute her view of the facts for the circuit court's. We may not reverse factual findings unless clearly erroneous, and Bach's assertion that the court's findings were "an error of fact and

[4] Bach also maintains that the circuit court committed a legal error by concluding that the FDCPA did not apply to Chase. We need not address this argument because the circuit court concluded that even if the FDCPA applied, "the greater weight of credible evidence presented does not establish that Chase's acts violated the FDCPA." And Bach fails to demonstrate that this finding was clearly erroneous.

law" is undeveloped and conclusory. *See* WIS. STAT. § 805.17(2) (2015-16)[5] (we may not reverse a circuit court's factual findings unless clearly erroneous); *see also* ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (court of appeals need not address undeveloped arguments). Thus, we affirm the circuit court's decision to deny her FDCPA claim.

Jury Trial

¶12 Independent of the other alleged errors, Bach insists that she was entitled to have a jury determine the merits of her counterclaims.[6] She maintains that she was required to bring her counterclaims in the foreclosure action because she would have been collaterally estopped from bringing these claims separately. Thus, she reasons, she preserved her right to a jury trial on these claims.

¶13 Bach brought three claims to trial: (1) breach of contract, (2) promissory estoppel, and (3) an FDCPA claim. She was not entitled to a jury trial on her breach of contract claim because, as already explained, her claim fails as a matter of law. It is well established that a litigant's right to a jury trial does not prevent dismissal "when there are no genuine issues of material fact that require a trial." ***Farmers Auto. Ins. Ass'n v. Union Pac. Ry. Co.***, 2008 WI App 116, ¶39, 313 Wis. 2d 93, 756 N.W.2d 461 (concluding that a litigant has no right to a jury trial where the court properly granted summary judgment). Whether a writing

[5] All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

[6] Although Bach demanded a jury trial in her initial counterclaim, her amended counterclaim did not similarly request a jury trial. Nor did Bach address the issue during subsequent proceedings. Accordingly, we could disregard her argument as unpreserved. However, Chase does not argue that Bach has forfeited her argument. Therefore, we elect to address Bach's argument substantively.

satisfies the statute of frauds is a question of law. ***First Bank (N.A.) v. H.K.A. Enters., Inc.***, 183 Wis. 2d 418, 423, 515 N.W.2d 343 (Ct. App. 1994). And we hold Bach to her concession that the circuit court properly found that the January 23 offer letter did not satisfy the statute of frauds. With the alleged agreement unenforceable as a matter of law, there were no factual issues for a jury to try. Therefore, we cannot reverse and grant Bach a jury trial on this claim.

¶14 We also conclude that Bach was not entitled to a jury trial on her FDCPA or promissory estoppel claims. The right to a jury trial does not extend to equitable actions. *See* ***Green Spring Farms v. Spring Green Farms Assocs.***, 172 Wis. 2d 28, 33, 492 N.W.2d 392 (Ct. App. 1992). Since promissory estoppel is entirely equitable, it carries with it no jury trial right.

¶15 The jury demand in the FDCPA claim is similarly waived by virtue of having raised it in an equitable action. Merely raising a legal counterclaim that would ordinarily merit a jury trial "does not necessarily entitle the counterclaimant to a jury trial." ***Id.*** at 34 (citation omitted). As a general rule, if a counterclaimant asserts a legal claim in an equitable action, then the counterclaimant waives his or her right to a jury trial—provided the counterclaim is not compulsory. ***Id.*** Although Wisconsin does not have a compulsory counterclaim rule, we have recognized that issue preclusion—occasionally referred to as collateral estoppel—operates as a "common-law compulsory counterclaim rule" because a litigant must bring certain claims or they will be barred. ***Id.*** at 35-36. Accordingly, "where a counterclaimant is compelled to raise his or her claims by the doctrine of collateral estoppel [issue preclusion], that compulsion does not result in the waiver of the counterclaimant's right to a jury trial." ***Id.*** at 34-35. Wisconsin adheres to the rules of issue preclusion outlined in the RESTATEMENT (SECOND) OF JUDGMENTS (AM. LAW INST. 1982). ***Green Spring Farms***, 172 Wis. 2d at 35.

> (2) A defendant who may interpose a claim as a counterclaim in an action but fails to do so is precluded, after the rendition of judgment in that action, from maintaining an action on the claim if:
>
> ....
>
> (b) The relationship between the counterclaim and the plaintiff's claim is such that successful prosecution of the second action would nullify the initial judgment and would impair rights established in the initial action.

RESTATEMENT (SECOND) OF JUDGMENTS § 22(2)(b) (AM. LAW INST. 1982). Thus, the question is whether Bach's FDCPA claim, if brought separately, would either (1) nullify the foreclosure judgment or (2) impair any rights established in the foreclosure action.

¶16 Issue preclusion would not have barred Bach from bringing her FDCPA claim separately. The issues in an action to collect a debt—like a foreclosure action—are generally different from a FDCPA claim. *See, e.g.*, ***Whitaker v. Ameritech Corp.***, 129 F.3d 952, 958 (7th Cir. 1997) (concluding that an action to collect a debt did not bar a subsequent FDCPA claim based on misconduct in collecting the same debt). And the thrust of Bach's FDCPA claim was that Chase's harassment entitled her to damages, not that the harassment could prevent Chase from foreclosing. Thus, we do not think Bach's FDCPA claim, if successful, would in any way undermine the foreclosure judgment or impair any rights established in it. Accordingly, Bach was not compelled to bring the claim in this foreclosure action and therefore was not entitled to a jury trial on it.

Compensatory Damages & Attorney's Fees

¶17 Bach next launches a full-scale assault on the court's decision not to award damages.[7] She wants compensation for "deteriorating health," "lost wages," her damaged credit rating, attorney's fees (as a licensed pro se litigant), and finally, punitive damages due to misconduct by Chase.

1. Compensatory Damages

¶18 Bach's argument that the circuit court should have awarded compensatory damages is merely an invitation to overturn the circuit court's factual finding that Bach failed to prove any damages. "Determining damages is within the trial court's discretion," and "[w]e will not reverse the trial court's findings of fact on damages unless they are clearly erroneous." ***J.K. v. Peters***, 2011 WI App 149, ¶32, 337 Wis. 2d 504, 808 N.W.2d 141. Bach forwards an alternative view of the evidence, but she fails to demonstrate that the court's finding was clearly erroneous.

¶19 To the extent she argues that the court should have admitted certain exhibits to allow her to further prove her damages claim, she fails to demonstrate any error. She broadly claims that a number of exhibits should have been admitted because "all relevant evidence must be admitted." This is incorrect. Even where evidence is relevant, "whether such evidence should be admitted lies

[7] Bach begins her argument with an unsupported assertion that "Judge Noonan negotiated a settlement agreement at the pretrial hearing" off the record and erred by failing to make a record of the alleged settlement. As a remedy, she asks us to "overturn the decision to avoid injustice." Aside from the obvious problems with taking Bach's bald assertions about off-record conversations at face value, she has failed to develop her argument and we need not consider it. *See* ***State v. Pettit***, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992).

within the discretion of the circuit court." ***State v. Doss***, 2008 WI 93, ¶75, 312 Wis. 2d 570, 754 N.W.2d 150. Thus, Bach's bare argument that the exhibits were relevant is not enough; the circuit court is not required to admit evidence merely because it is relevant. To demonstrate error, Bach must show that the circuit court erroneously exercised its discretion.[8] Our review of the circuit court's discretionary evidentiary decisions is "highly deferential," and Bach offers nothing—case law or otherwise—that upsets our deference to the numerous

[8] Bach also makes scattered intimations that the circuit court's evidentiary decisions implicated her constitutional rights. These too are undeveloped and need not be addressed.

> Constitutional claims are very complicated from an analytic perspective, both to brief and to decide. A one or two paragraph statement that raises the specter of such claims is insufficient to constitute a valid appeal of these constitutional issues to this court. For us to address undeveloped constitutional claims, we would have to analyze them, develop them, and then decide them. We cannot serve as both advocate and court.

Cemetery Servs., Inc. v. Wisconsin Dep't of Regulation & Licensing, 221 Wis. 2d 817, 831, 586 N.W.2d 191 (Ct. App. 1998).

evidentiary rulings complained of here.[9] ***Martindale v. Ripp***, 2001 WI 113, ¶28, 246 Wis. 2d 67, 629 N.W.2d 698.

¶20 Also relevant to her damages claim, Bach contends that the circuit court should have granted her alternate promissory estoppel claim: that she defaulted because Chase told her to fall behind in her mortgage. In addition to the promise of loan modification, Bach claims that Chase also told her to fall behind in her mortgage to qualify in the first place. It is unclear what Bach hopes to accomplish with this argument; the circuit court already enforced Chase's promise to offer loan modification. As best we can tell, this is a separate effort to recover the damages she was unable to prove in connection with her other claims.

¶21 This claim fails as well. Promissory estoppel requires Bach to prove (1) "the promise was one that [Chase] should reasonably have expected to induce

[9] Bach insists, with little accompanying analysis, that the circuit court should have admitted exhibits 200, 205, 207A, 201A, and 213. Exhibits 200 and 205 contained Bach's notes, and the circuit court allowed Bach to refer to them to refresh her recollection. This is a proper use. *See* ***Harper, Drake & Assocs., Inc. v. Jewett & Sherman Co.***, 49 Wis. 2d 330, 342, 182 N.W.2d 551 (1971) (explaining that "[u]nder the doctrine of present recollection refreshed, a witness may look at a writing to refresh his memory and then testify in his own words as to the contents of the writing"). Bach does not explain why the court was required to go further and actually admit the notes themselves. Instead she reiterates her conclusory (and incorrect) assertion that all relevant evidence "must be admitted." Exhibit 207A contained various newspaper articles detailing alleged misconduct by Chase, and the court excluded it as hearsay. Bach fails to explain how the exhibit was not hearsay, or why the circuit court erroneously exercised its discretion by excluding it. As to exhibit 210A, aside from insisting that the exhibit was "relevant evidence," Bach fails to "address, as a threshold matter, the circuit court's evidentiary ruling excluding these materials from evidence" as required by our February 25, 2016 order. It is Bach's responsibility to develop her arguments, and we need not address this exhibit. ***Pettit***, 171 Wis. 2d at 646-47. Exhibit 213 allegedly supported Bach's claim that she was entitled to damages on account of her damaged credit score. However, the court excluded this evidence because it concerned alleged injury that occurred prior to Chase's promise to offer loan modification. Thus, the court reasoned that Chase's promise to offer modification could not have caused the damage. This was a reasonable decision, and we will not reverse it. As Bach fails to develop any meaningful argument as to why the circuit court erroneously exercised its discretion, we decline Bach's invitation to reverse the circuit court on this ground.

either action or forbearance of a definite and substantial character by [Bach]," (2) "the promise did induce either action or forbearance," and (3) "enforcement of the promise is necessary to avoid an injustice." ***U.S. Oil Co. v. Midwest Auto Care Servs., Inc.***, 150 Wis. 2d 80, 89, 440 N.W.2d 825 (Ct. App. 1989). The chief obstacle to Bach's claim is that the first two elements are fact questions. *See* ***id.*** The circuit court found that the evidence did not support Bach's claim that Chase told her to fall behind in her mortgage, and it further concluded that any reliance by Bach was unreasonable.[10] And Bach fails to develop an argument—aside from unsupported, conclusory assertions—that these factual findings were clearly erroneous.

2. Attorney's Fees

¶22 Bach's argument that she was entitled to attorney's fees is similarly devoid of merit. Wisconsin adheres to the American Rule of attorney's fees. Under this rule, "attorney's fees are not ordinarily recoverable in the absence of a statute or enforceable contract providing therefor," and "[e]ach party to a lawsuit, under this theory, should bear its own costs of litigation." ***Kremers-Urban Co. v.***

[10] In rejecting Bach's alternate theory of promissory estoppel, the court explained that

> it doesn't matter so much what was said to you. All real estate statute of fraud transactions have to be in writing, Ms. Bach, when somebody tells you something. You know that. You're a lawyer. So this is a mortgage foreclosure. These things have to be in writing. The Trial Period Payment Plan was put in writing to you. There's no dispute that you did not make those payments timely. None. Regardless of what you're now saying. So you were even in default under the Trial Period Payment Plan in addition to being in default you say in reliance upon some person saying well go into default. Don't make payments. That is not something that you as a lawyer should ever rely upon. And you know better than that.

American Emp'rs Ins. Co., 119 Wis. 2d 722, 744, 351 N.W.2d 156 (1984). Thus, in order to be entitled to attorney's fees, Bach must show that a contract or statute so provides. She has not done so.

¶23 Bach failed to prove a violation of the FDCPA. Further, Bach does not identify any contractual provision that would provide for attorney's fees in this case, so fees cannot be awarded based on contract. Bach has waived her argument that 28 U.S.C. § 1927 (2012) and the bankruptcy code entitle her to attorney's fees because she "failed to raise the issue with sufficient prominence" before the circuit court.[11] *See* ***Bilda v. Milwaukee Cty.***, 2006 WI App 159, ¶46, 295 Wis. 2d 673, 722 N.W.2d 116. Finally, we reject out-of-hand Bach's generalized invitation to award her fees in the name of public policy.[12]

---

[11] Chase maintains that these arguments are raised for the first time before us, and Bach does not even mention the statute again in her reply. She does, however, claim that she "brought up the bankruptcy before the trial court," but her record citation does not support this assertion. Although Bach mentioned a bankruptcy case during the pretrial conference, she did so in the context of arguing that punitive damages were allowed. She did not argue that the bankruptcy code provided a basis to award attorney's fees. The only references to this permutation of Bach's attorney's fees argument that we were able to locate are buried in a motion for reconsideration—which the circuit court struck without addressing the merits—and Bach's motion for stay pending appeal. These isolated allusions are not sufficient to "apprise the circuit court" of the issue. *See* ***Bilda v. Milwaukee Cty.***, 2006 WI App 159, ¶46, 295 Wis. 2d 673, 722 N.W.2d 116.

Furthermore, Bach makes little effort to explain how the bankruptcy code and 28 U.S.C. § 1927 (2012) would even apply to this action and allow her to collect attorney's fees. She merely asserts that "bankruptcy rulings were at issue" in this case. Thus, even assuming she had raised the argument before the circuit court, we disregard it as undeveloped. *See* ***Pettit***, 171 Wis. 2d at 646-47.

[12] Bach also complains that the circuit court improperly denied admission of exhibit 214, which showed she "suffered damages by spending over 500 hours defending foreclosures Chase was estopped from filing." Without any basis to award attorney's fees, however, the circuit court could not have erroneously exercised its discretion by refusing to admit evidence supporting such an award. *See* ***State v. Migliorino***, 170 Wis. 2d 576, 590, 489 N.W.2d 678 (Ct. App. 1992) (explaining that the circuit court's determination that evidence is irrelevant to the issues at trial must be affirmed "if it has 'a reasonable basis' and was made 'in accordance with accepted legal standards and in accordance with the facts of record.'" (citation omitted)).

3. Punitive Damages

¶24 Bach also complains that the circuit court should have considered Chase's "misconduct" and awarded punitive damages. Her allegations of misconduct include assertions that Chase (1) induced her to default by telling her to fall behind in her mortgage payments,[13] (2) breached its promise to offer loan modification, (3) engaged in numerous instances of "Courtroom Misconduct" including various alleged discovery violations, (4) violated the Multi-State National Mortgage Settlement Agreement, and (5) violated the implied covenant of good faith and fair dealing. Sifting through the morass of these allegations, it becomes clear that Bach's chief complaint is that she disagrees with the circuit court's factual finding that "[p]unitive damages are not available … because the Court finds that Chase did not act maliciously or with an intentional disregard of Ms. Bach's rights."

¶25 Bach's arguments fail for several reasons. First, the circuit court found as a factual matter that Chase did not act maliciously or with intentional disregard for Bach's rights. *See* WIS. STAT. § 895.043(3) ("The plaintiff may receive punitive damages if evidence is submitted showing that the defendant acted maliciously toward the plaintiff or in an intentional disregard of the rights of the plaintiff."). Bach makes no plausible argument that this finding was clearly erroneous. *See* WIS. STAT. § 805.17(2). Second, "the 'general and perhaps almost universally accepted rule'" is "that punitive damages cannot be awarded in the

[13] Bach also alleges that this "misconduct" constituted a violation of WIS. STAT. § 224.77, and the court should have considered this as well. To the extent that Bach argues that she has an independent cause of action based on § 224.77, the argument is undeveloped and we need not address it. ***Pettit***, 171 Wis. 2d at 646-47. We also note that Bach never alleged a violation of § 224.77 as a counterclaim.

absence of actual damage." ***Groshek v. Trewin***, 2010 WI 51, ¶28, 325 Wis. 2d 250, 784 N.W.2d 163 (citation omitted). This is so because punitive damages "operate as an enhancement of compensatory damages." ***Id.*** (citation omitted). Therefore, where no compensatory damages are awarded, the plaintiff may not recover any punitive damages. ***Id.***, ¶29. Because the circuit court's factual finding that Bach failed to prove any damages is not clearly erroneous, Bach could not recover any punitive damages. Finally, it is black letter law that punitive damages may not be awarded in equitable actions. *See* ***Karns v. Allen***, 135 Wis. 48, 58, 115 N.W. 357 (1908) ("The damages which may be recovered in an equitable action under our decisions are compensatory and not exemplary damages."); *see also* ***Groshek***, 325 Wis. 2d 250, ¶¶26, 28, 30 (discussing ***Karns*** and declining to "overrule" it). Because we affirm the circuit court's decision to deny Bach's breach of contract claim and FDCPA claim, she is left with promissory estoppel—an equitable claim. *See* ***Hoffman v. Red Owl Stores, Inc.***, 26 Wis. 2d 683, 694-95, 133 N.W.2d 267 (1965). And, per ***Karns***, Bach cannot recover punitive damages based upon an equitable claim.[14]

[14] The remainder of Bach's arguments may be disposed of summarily. Bach argues that Chase should be sanctioned for retaliating against her for filing bankruptcy in violation of federal law. This was never brought as a counterclaim, and in any event, is undeveloped. ***Pettit***, 171 Wis. 2d at 646-47. Bach also raises numerous issues related to her second mortgage. As the circuit court made clear, "[t]he second mortgage is not at issue in this decision and order." Thus, all of Bach's complaints that relate to this second mortgage are meritless. Finally, throughout her briefs Bach refers to portions of her WCA claim, unjust enrichment claim, and negligent infliction of emotional distress claim. Bach consented to the dismissal of her WCA and unjust enrichment claims, and fails to develop an argument that the circuit court improperly dismissed the negligent infliction of emotional distress claim. Therefore, we will not address any of her arguments that relate to these claims. To the extent Bach raises other claims, they are summarily denied.

CONCLUSION

¶26 Although Bach raises numerous issues with the circuit court's ruling—largely aimed at the court's decision not to award damages above and beyond the promissory estoppel ruling in her favor—she fails to demonstrate any error. Accordingly, we affirm.

By the Court.—Order affirmed.

Not recommended for publication in the official reports.