

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

West Coast Servicing, Inc.,	:	
Plaintiff-Appellee,	:	No. 25AP-517
v.	:	(C.P.C. No. 24CV-6307)
Cheryl L. Persley et al.,	:	(REGULAR CALENDAR)
Defendants-Appellants.	:	

D E C I S I O N

Rendered on August 25, 2026

On brief: *Reisenfeld & Associates LLC*, and *David W. Cliffe*,
for appellee. **Argued:** *David W. Cliffe*.

On brief: *Cheryl L. Persley*, pro se. **Argued:** *Cheryl L. Persley*.

APPEAL from the Franklin County Court of Common Pleas

DINGUS, J.

{¶ 1} Defendant-appellant, Cheryl L. Persley, appeals a judgment from the Franklin County Court of Common Pleas granting summary judgment in favor of plaintiff-appellee, West Coast Servicing, Inc. (“West Coast”), and entering a decree of foreclosure. For the reasons that follow, we reverse and remand the matter for further proceedings.

I. Facts and Procedural History

{¶ 2} West Coast initiated the underlying action in August 2024, naming Persley and “Unknown Spouse, if any, of Cheryl L. Persley” (“Unknown Spouse”) among the defendants. (Aug. 14, 2024 Compl. at 1.) West Coast sought judgment on a note Persley executed in 2003 and sought foreclosure on the property securing it, located at 560 Eastmoor Boulevard in Columbus, Ohio. West Coast requested but failed to achieve personal or residential service against Persley or the Unknown Spouse at 1659 Foxhall Road

in Blacklick, Ohio. West Coast later served Persley personally at 560 Eastmoor Boulevard, Apartment A. Persley also signed the receipt for residential service on the Unknown Spouse at the Eastmoor address. Persley, acting pro se, filed an answer to the complaint, identifying 560 Eastmoor Boulevard, Apartment A, as her address.

{¶ 3} Despite serving Persley at the Eastmoor address and Persley providing the Eastmoor address in her answer, West Coast mailed subsequent filings to the Foxhall address—where West Coast had previously failed to achieve service. In December 2024, West Coast filed a motion for leave to amend its complaint, and it purported to serve Persley with the motion by sending it via regular U.S. mail to the Foxhall address. After obtaining leave from the trial court, West Coast filed its amended complaint and again purported to serve Persley by sending it via regular U.S. mail to the Foxhall address. The changes to the complaint affected certain lienholders but did not affect any of the claims or prayer for relief against Persley.

{¶ 4} On April 2, 2025, West Coast filed a motion for default judgment against the Unknown Spouse and a motion for summary judgment against Persley, this time sending the motions to the Eastmoor address. On April 16, 2025, Persley filed a document captioned “Notice Regarding Prior Response and Amended Complaint Service.” In it, Persley argued that West Coast had failed to serve her with the amended complaint and had instead mailed it to an old address. Persley asked the court to allow her to file an answer to the amended complaint and to properly defend against West Coast’s motions. West Coast replied to Persley’s filing, arguing that the failure of service was Persley’s fault because she had failed to provide an updated address to the trial court. Remarkably, despite having itself used the Eastmoor address to serve its April 2, 2025 motions on Persley, West Coast nonetheless mailed its reply to Persley at the defunct Foxhall address.

{¶ 5} On May 27, 2025, the trial court entered judgment granting West Coast’s motions for default judgment against Unknown Spouse and summary judgment against Persley. The court held that West Coast “provided a certificate of service with its amended complaint in compliance with Civ.R. 5 and 4-4.6” and that Persley “did not provide any notice of a change of address to the court or [West Coast’s] counsel.” (May 27, 2025 Jgmt. Entry at 4.) It denied Persley’s request to “file a late answer” because she “bore the responsibility to update her address with the court and [West Coast’s] counsel and failed to

do so.” *Id.* The court construed Persley’s April 16 filing as her response to West Coast’s motion for summary judgment and denied her request for leave to respond as moot. And because Persley failed to refute the claims established in West Coast’s motion for summary judgment, the trial court entered judgment finding that Persley had defaulted on the note and that West Coast was entitled to a decree of foreclosure. The court mailed its decision to Persley at the defunct Foxhall address, and the mail was returned to the court as undeliverable.

{¶ 6} Persley filed a motion for relief from judgment, and she later filed a timely notice of appeal. The motion for relief from judgment remains pending. This court ordered a stay of proceedings in February 2026.

II. Assignments of Error

{¶ 7} Persley, proceeding pro se, presents the following three assignments of error for our review:

[I.] The trial court erred in granting default judgment where the Amended Complaint was not properly served in accordance with Rule 4 of the Ohio Rules of Civil Procedure.

[II.] The trial court erred in concluding that I failed to update my address on the court docket, despite Plaintiff’s repeated notice of my correct address.

[III.] The trial court erred in failing to dismiss the case as time-barred under the applicable statute of limitations for a promissory note, ORC §1306.16.

III. Discussion

{¶ 8} Persley’s first and second assignments of error contest the validity of the trial court’s decision to enter judgment in favor of West Coast on its dispositive motions. Although Persley focuses on the trial court’s default judgment decision, we note that West Coast sought a default judgment against the Unknown Spouse and not against Persley herself. A pro se appellant who is not an attorney cannot appeal a judgment on behalf of another party. *Kessler v. Ohio Civ. Rights Comm.*, 2023-Ohio-3376, ¶ 11 (10th Dist.); R.C. 4705.01. Persley is not an attorney, and so she cannot bring an appeal on anyone’s behalf other than her own. Accordingly, we dismiss Persley’s first and second assignments of error to the extent that they relate to the default judgment against the Unknown Spouse,

and we will consider the merits of the assignments of error as they relate to the summary judgment decision against Persley.

{¶ 9} Persley argues that the trial court’s decision granting judgment against her was improper because West Coast failed to perfect service of its amended complaint on her, and because the trial court relied on erroneous factual findings to excuse West Coast’s insufficient service and to deny Persley the opportunity to respond. We review summary judgment decisions de novo. *Credit Corp. Solutions, Inc. v. Rivas*, 2024-Ohio-4772, ¶ 9 (10th Dist.); *Equable Ascent Fin., L.L.C. v. Barnes*, 2012-Ohio-1219, ¶ 4 (10th Dist.). Here, however, we are concerned with the process leading up to the trial court’s entry of summary judgment, not the merits of the decision itself. Specifically, we are concerned with the trial court’s holding that West Coast’s service of the amended complaint was proper and that Persley’s request for an opportunity to respond was unjustified.

{¶ 10} Service is consistent with due process standards if it is reasonably calculated, under the circumstances, to provide notice and an opportunity to respond. *Jones v. Flowers*, 547 U.S. 220, 226 (2006). “A determination of whether notice was reasonably calculated to reach the interested party requires a case-by-case examination of the particular facts.” *C & W Invest. Co. v. Midwest Vending, Inc.*, 2003-Ohio-4688, ¶ 14 (10th Dist.), citing *Akron-Canton Regional Airport Auth. v. Swinehart*, 62 Ohio St.2d 403 (1980). We review a trial court’s decision regarding the sufficiency of service for abuse of discretion. *C & W Invest. Co.* at ¶ 13. A court abuses its discretion by “exercising its judgment, in an unwarranted way, in regard to a matter over which it has discretionary authority.” *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 35. A trial court does not have the discretion to apply the law incorrectly or to rely on clearly erroneous findings of fact. *Bellamy v. Montgomery*, 2012-Ohio-4304, ¶ 7 (10th Dist.); *First Technology Safety Sys., Inc. v. Depinet*, 11 F.3d 641, 647 (6th Cir. 1993).

{¶ 11} Among the facts that are pertinent to a court’s determination of whether notice was reasonably calculated to reach a party, the court should consider whether the sender was aware that its previous attempt at notice had failed at a particular address. *See Jones* at 230. Mailing notice to a defendant’s address of record is not reasonably calculated to reach the defendant where the plaintiff knows that the defendant cannot be reached at that address. *Robinson v. Hanrahan*, 409 U.S. 38, 40 (1972).

{¶ 12} It is undisputed that West Coast properly served Persley with its original complaint and that the original and amended complaints contained identical claims against Persley. West Coast was therefore permitted to serve Persley with its amended complaint by mailing it to Persley’s “last known address by United States mail.” Civ.R. 5(B)(2)(c). It is also undisputed that West Coast had previously tried and failed to serve Persley at the Foxhall address, and that West Coast’s properly served original complaint and Persley’s answer both establish that the Eastmoor address was Persley’s last known address. Accordingly, West Coast failed to attempt service of the amended complaint at Persley’s last known address, pursuant to Civ.R. 5(B)(2)(c), and West Coast’s action was not reasonably calculated to reach Persley because West Coast was aware that Persley could not be reached at the Foxhall address.

{¶ 13} The trial court came to the opposite conclusion by finding that Persley had changed her address without notifying the court or West Coast. It is well established by this point that Persley did not change her address after West Coast served its original complaint, and so the trial court’s conclusion was based on a clearly erroneous finding of fact. The trial court therefore abused its discretion in holding that West Coast had properly served notice of its amended complaint.

{¶ 14} West Coast argues that inadequate notice of the amended complaint is not dispositive in this particular case because Persley had notice of West Coast’s claims in its original complaint and because West Coast sought summary judgment against Persley on those same claims. However, due process requires that a party receives notice *and* is given an “opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976), quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965). At the time of Persley’s response to West Coast’s motion for summary judgment, she had just received notice of both the amended complaint and the motion for summary judgment, and she asked for time to ensure that she could adequately respond.

{¶ 15} The trial court’s denial of Persley’s request for additional time to respond could be considered the mere exercise of supervisory power over its docket, which we review for abuse of discretion. *See State ex rel. Buck v. McCabe*, 140 Ohio St. 535, 537-538 (1942); *State v. Unger*, 67 Ohio St.2d 65, 67 (1981). We must recognize, though, that “cases should be decided upon their merits, where possible, rather than on procedural grounds.”

Marion Prod. Credit Assn. v. Cochran, 40 Ohio St.3d 265, 271 (1988). Because “summary judgment denies the party his or her ‘day in court’ it is not to be viewed lightly as docket control.” *Welch v. Zicarelli*, 2007-Ohio-4374, ¶ 40 (11th Dist.). And, most importantly, we reiterate that a court does not have the discretion to rely on clearly erroneous findings of fact. *Bellamy*, 2012-Ohio-4304, at ¶ 7 (10th Dist.); *First Technology*, 11 F.3d at 647. The trial court denied Persley’s request for additional time to respond based specifically on its finding that Persley failed to update her address with the court and West Coast. Having decided the matter on a clearly erroneous finding of fact, the trial court abused its discretion.

{¶ 16} The trial court erred in proceeding to enter summary judgment against Persley without first granting her request for leave to file an answer to West Coast’s amended complaint and to be given an adequate opportunity to respond to West Coast’s motion for summary judgment. Accordingly, we sustain Persley’s first and second assignments of error in part.

{¶ 17} In her third assignment of error, Persley argues that judgment should have been entered in her favor because West Coast’s action was barred by the statute of limitations. Given our resolution of Persley’s other assignments of error, her third assignment of error is moot, and we need not address it. App.R. 12(A)(1)(c).

IV. Disposition

{¶ 18} We dismiss Persley’s first and second assignments of error in part as they relate to the default judgment decision against the Unknown Spouse, and we sustain them in part as they relate to the summary judgment decision against Persley. We deny her third assignment of error as moot. We therefore reverse the judgment of the Franklin County Court of Common Pleas, and we remand the cause for further proceedings.

*Judgment reversed;
cause remanded.*

BEATTY BLUNT and JAMISON, JJ., concur.
