

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
PORTAGE COUNTY**

TATTERSHALL ONE
CONDOMINIUM UNIT OWNERS'
ASSOCIATION,

Plaintiff-Appellee,

- VS -

TRACY L. MARKS, et al.,

Defendant-Appellant.

CASE NO. 2026-P-0004

Civil Appeal from the
Court of Common Pleas

Trial Court No. 2024 CV 00018

OPINION AND JUDGMENT ENTRY

Decided: September 8, 2026

Judgment: Affirmed

Tattershall One Condominium Unit Owners' Association, 170 Bryn Mawr Street, Ravenna, OH 44266 (Plaintiff-Appellee).

Tracy L. Marks, pro se, 170 Bryn Mawr Street, Unit F, Ravenna, OH 44266 (Defendant-Appellant).

MATT LYNCH, P.J.

{¶1} Appellant, Tracy L. Marks, appeals the judgment of the Portage County Court of Common Pleas ordering her to pay attorney fees in the amount of \$21,537.82 to appellee, Tattershall One Condominium Unit Owners' Association ("Tattershall" or the "Association").¹ After a careful review of Marks' assignments of errors, the record, as well as the pertinent law, we determine her arguments are barred by the doctrine of res judicata. The judgment of the trial court is affirmed.

1. Appellee did not file a brief on appeal.

{¶2} In 2024, Tattershall filed a complaint in the trial court against Marks, Robert W. Bretz, and Linda L. Utterdyke (collectively, “the defendants”). Tattershall alleged that in 2023, Utterdyke became the owner of a condominium unit within the Association pursuant to a transfer on death confirmation affidavit. When Tattershall requested Utterdyke submit to an “acceptability check” as provided in its bylaws, Utterdyke refused to do so and transferred the unit to Marks and Bretz, who also refused to submit to acceptability checks. Tattershall raised the following claims: (1) breach of contract, arguing Bretz and Marks owned the unit in violation of the bylaws and the defendants intentionally circumvented the rights of the Association when transferring the unit; (2) declaratory judgment, requesting a finding that the transfer from Utterdyke to Bretz and Marks was void; and (3) injunctive relief related to the failure to complete the acceptability checks. Included in Tattershall’s alleged damages on its breach of contract claim was a request for attorney fees pursuant to the Association’s bylaws and R.C. 5311.19.

{¶3} On July 8, 2024, the trial court granted Tattershall’s motion for summary judgment, finding the defendants failed to comply with the bylaws. A magistrate’s decision was issued several weeks later, on July 31, 2024, finding the defendants jointly and severally liable to Tattershall for attorney fees in the amount of \$20,500.55. The trial court adopted the decision and entered judgment on the same day.

{¶4} On August 6, 2024, the defendants filed a notice of appeal in this court. On August 14, 2024, the defendants filed motions for extensions of time to file objections to the magistrate’s decision in the trial court.

{¶5} In *Tattershall One Condominium Unit Owner’s Assn. v. Marks*, 2025-Ohio-343 (11th Dist.) (“*Tattershall I*”), this court reversed the trial court’s award of summary

judgment in favor of Tattershall on its claims against Utterdyke and Bretz, but affirmed the trial court's award of summary judgment in favor of Tattershall on its claims against Marks. *Id.* at ¶ 58. As relevant to the instant appeal, we vacated the award of attorney fees that was issued against Utterdyke and Bretz, *id.* at ¶ 53, and affirmed the award of attorney fees that was issued against Marks, *id.* at ¶ 55. We remanded the matter for the trial court to consider whether the total amount of awarded attorney fees was proper solely against Marks or whether a modification of the amount was necessary given reversal of the judgments against Utterdyke and Bretz. *Id.* at ¶ 56.

{¶6} On remand, Marks filed a motion to deny attorney fees and “a notice to the trial court on remand” regarding why attorney fees awarded against her was inappropriate. Tattershall filed briefs in opposition to each filing. The magistrate held a hearing on June 30, 2025, and issued a decision on July 17, 2025.

{¶7} In its decision, the magistrate reviewed that a prior judgment found Marks had violated Tattershall's rules and regulations and that Tattershall was seeking legal fees in the amount of \$29,625.78. The magistrate found some of the legal expenses Tattershall expended did not relate to the arguments raised against Marks because they related either to Tattershall's claims against Utterdyke and Bretz or to updating the Association's records with the Secretary of State. Further, several of Tattershall's arguments against Marks were duplicative of arguments made against Utterdyke and Bretz, and Tattershall's counsel billed that legal work as against one defendant. Lastly, the magistrate found Tattershall's counsel did not bill for all of the time spent on the matter, the hourly rate and number of hours were reasonable, and there were no frivolous

filings or unreasonable legal fees. The magistrate ordered Marks to reimburse Tattershall \$21,537.82 in attorney fees.

{¶8} On July 31, 2025, Marks filed objections to the magistrate’s decision. On August 18, 2025, Marks filed a notice of appeal of the magistrate’s decision. In *Tattershall One Condominium Unit Owners’ Assn. v. Marks*, 2025-Ohio-5570 (11th Dist.) (“*Tattershall II*”), this court dismissed the appeal for lack of a final appealable order and remanded for the trial court to rule on Marks’ objections. On December 16, 2025, the trial court overruled Marks’ objections and entered judgment, finding no transcript or request for a transcript had been filed and Marks had not sought leave of court to extend the time for filing the transcript.

{¶9} On January 13, 2026, Marks appealed, and on February 4, 2026, she filed in this court a transcript of the June 30, 2025 hearing held before the magistrate.²

{¶10} Marks raises one assignment of error for our review:

{¶11} “The trial court committed plain error by granting appellee an award of attorney’s fees in the amount of \$21,537.82 by failing to apply the laws of the State of Ohio (R.C. 2721.16, R.C. 5311.23), the Bylaws – Article XVI(1).”

{¶12} “‘When reviewing an appeal from a trial court’s adoption of a magistrate’s decision, an appellate court must determine whether the trial court abused its discretion in adopting the decision.’” (Citation omitted.) *Grinder v. Schaaf*, 2026-Ohio-312, ¶ 28 (11th Dist.), quoting *Mapleview Operating Co. v. Valletto*, 2025-Ohio-1898, ¶ 15 (11th

2. Marks never filed a transcript with her objections to the trial court; thus, we cannot consider the transcript on appeal. See *Wickliffe v. Tigner*, 2026-Ohio-519, ¶ 13 (a reviewing court cannot add matter to the record that was not part of the trial court’s proceedings and then decide the appeal on the basis of the new matter).

Dist.); *J&S Motors, L.L.C. v. Hendking*, 2025-Ohio-2925, ¶ 17 (11th Dist.) (“we review a trial court’s adoption of a magistrate’s decision for an abuse of discretion”).

{¶13} Marks’ assignment of error concerns the trial court’s July 31, 2024 judgment *awarding* Tattershall attorney fees, which was affirmed in *Tattershall I*, instead of the trial court’s December 16, 2025 judgment determining the *amount* of attorney fees to be awarded, the judgment currently before us on appeal. Thus, Marks’ argument is barred by the doctrine of res judicata because it should have been raised in her first appeal. “Res judicata, also known as ‘claim preclusion,’ is the doctrine under which a final judgment on the merits bars a party from bringing another lawsuit based on the same claim.” (Emphasis deleted.) *Jackson v. Lou Cohen, Inc.*, 84 Ohio App.3d 693, 696 (8th Dist. 1992). “Res judicata extends to bar not only claims which actually were litigated, but ‘every question which might properly have been litigated.’” (Emphasis deleted.) *Id.*, quoting *Stromberg v. Bratenahl Bd. of Edn.*, 64 Ohio St.2d 98, 100 (1980). *Accord Morgan v. Natale*, 2022-Ohio-1281, ¶ 105 (11th Dist.); *see also Dilley v. Dilley*, 2024-Ohio-2035, ¶ 16-18 (11th Dist.).

{¶14} Accordingly, Marks’ assignment of error is not well taken, and the judgment of the Portage County Court of Common Pleas is affirmed.

JOHN J. EKLUND, J.,

ROBERT J. PATTON, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, appellant's assignment of error is without merit. It is the judgment and order of this court that the judgment of the Portage County Court of Common Pleas is affirmed.

Costs to be taxed against appellant.

PRESIDING JUDGE MATT LYNCH

JUDGE JOHN J. EKLUND,
concur

JUDGE ROBERT J. PATTON,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY

A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.