

STATE OF MICHIGAN
COURT OF APPEALS

MICHAEL BAKER and SUZIE BAKER,

Plaintiffs-Appellants,

v

HOMEcomings FINANCIAL, L.L.C.,
RESIDENTIAL FUNDING COMPANY, L.L.C.,
and FRANKLIN FINANCIAL, LTD.,

Defendants-Appellees.

UNPUBLISHED

July 26, 2011

No. 296471

Washtenaw Circuit Court

LC No. 09-000336-CK

Before: BECKERING, P.J., and FORT HOOD and STEPHENS, JJ.

PER CURIAM.

In this action under the Michigan Consumer Protection Act (MCPA), plaintiffs appeal as of right the trial court's grant of defendants' summary disposition motion pursuant to MCR 2.116(C). We affirm.

Defendants moved for summary disposition arguing that plaintiffs failed to state a claim on which relief could be granted and there was no issue of material fact. MCR 2.116(C)(7)-(8), (10). Plaintiffs were required to respond to defendants' motion. MCR 2.116(G)(4); *Coblentz v City of Novi*, 475 Mich 558, 568-569; 719 NW2d 73 (2006). Plaintiffs failed to respond. As a result, the trial court granted defendants' summary disposition motion.

Plaintiffs argue that the trial court erred in granting defendants' summary disposition motion because defendants' service of notice was deficient as a matter of law. We disagree. Questions of law are reviewed de novo. *People v Davis*, 468 Mich 77, 79; 658 NW2d 800 (2003). Due process requires that the notice given to a party be reasonably likely to inform the party of the action. *Maxwell v Dep't of Environmental Quality*, 264 Mich App 567, 574; 692 NW2d 68 (2004). Service by prepaid first class mail satisfies the notice requirement. MCR 2.107(C)(3); *Woods v SLB Prop Mgt, LLC*, 277 Mich App 622, 626; 750 NW2d 228 (2008). "Service by mail is complete at the time of mailing." MCR 2.107(C)(3). Properly addressed and mailed items are presumed to arrive at their destinations. *Crawford v State of Michigan*, 208 Mich App 117, 121; 527 NW2d 30 (1994). Defendants were required to serve the plaintiffs at least 21 days before the summary disposition hearing. MCR 2.116(G)(1)(a)(i). Defendants provided the trial court a signed service of process dated September 23, 2009, over 30 days before the summary disposition hearing. While plaintiffs argued there was "a problem with the

mail,” and they did not receive the notice until after the hearing, plaintiffs offered no evidence to support their position that defendants failed to comply with the service requirements. The trial court did not err in granting defendants’ summary disposition motion.

Plaintiffs also argue the trial court erred in denying plaintiffs’ relief from a judgment or order motion, pursuant to MCR 2.612(C)(1)(a), (c) and (f).¹ The trial court held a hearing on plaintiffs’ motion. Plaintiffs offered the same notice arguments as above to support that they were entitled to relief. A trial court’s decision on a motion pursuant to MCR 2.612 is reviewed for an abuse of discretion. *Peterson v Auto Owners Ins Co*, 274 Mich App 407, 412; 733 NW2d 413 (2007). If there are multiple principled and reasonable outcomes, and the trial court selects one of those outcomes, then the trial court has not abused its discretion. *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006). Defendants offered evidence they had complied with the service requirements, and plaintiffs did not prove otherwise. The trial court did not abuse its discretion in denying plaintiffs’ MCR 2.612 motion.

Additionally, plaintiffs argue that defendants admitted they did not properly serve plaintiffs with notice. Plaintiffs argued they received the notice after summary disposition had been granted. At the MCR 2.612 hearing, defendants indicated that they would not argue with plaintiffs’ representations about when they actually received the notice. Defendants, however, offered their proof of service as evidence they had sent plaintiffs notice, as required by MCR 2.107(C). Defendants did not admit they had not served plaintiffs.

Finally, plaintiffs argue the trial court erred in denying them the opportunity to amend their original complaint. Plaintiffs do not, however, address this issue in their brief. Plaintiffs must rationalize their arguments and cite supporting authority. *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003). Moreover, it “is axiomatic that where a party fails to brief the merits of an allegation of error, the issue is deemed abandoned by this Court.” *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999).

¹ Plaintiffs’ arguments related to (c) and (f) are abandoned where those subsections appear only in plaintiffs’ reply brief and plaintiffs do not explain or rationalize their positions under those rules. *Ykimoff v Foote Mem Hosp*, 285 Mich App 80, 107; 776 NW2d 114 (2009).

Affirmed.

/s/ Jane M. Beckering
/s/ Karen M. Fort Hood
/s/ Cynthia Diane Stephens