

COURT OF APPEALS OF OHIO, EIGHTH APPELLATE DISTRICT,
CUYAHOGA COUNTY

Lofty Holding 656 E. 126th St., L.L.C. v. 656 E. 126th, Ltd.

Lofty Holding, 2026-Ohio-1200 (Ohio Ct. App. 2026) · No. 115529 · Decided April 2, 2026

SUMMARY

The Ohio Eighth District Court of Appeals affirmed a default judgment against Armand DiNardo in favor of Lofty Holding 656 East 126th ST LLC. The court held that service by ordinary mail was properly completed under Ohio Civ.R. 4.6(D), that DiNardo failed to rebut the presumption of proper service, and that the trial court had personal jurisdiction. The court also concluded that the trial court properly denied DiNardo’s motion to vacate the judgment and dismiss for lack of personal jurisdiction.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
WRITING FOR THE COURT	Mary J. Boyle, P.J.; Deena R. Calabrese, J.; Eileen A. Gallagher, J.
JURISDICTION	Ohio Court of Appeals, Eighth Appellate District, Cuyahoga County
DECIDED	April 2, 2026
DOCKET	115529
DISPOSITION	affirmed
PROCEDURAL POSTURE	DiNardo appealed the Cuyahoga County Court of Common Pleas' corrected final judgment granting Lofty default judgment after determining that service by ordinary mail was perfected and that the court had personal jurisdiction over him.
STANDARD OF REVIEW	Whether the trial court had personal jurisdiction over the defendant is a question of law reviewed de novo.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Armand DiNardo, 656 East 126th Ltd. v. Lofty Holding 656 East 126th ST LLC

TOPICS

- service of process
- personal jurisdiction
- default judgment
- appellate procedure
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether service by ordinary mail under Ohio Civil Rule 4.6(D) was perfected when certified-mail service was returned unclaimed, the clerk entered the ordinary-mail service and answer date on the docket, and the mailing was not returned as undelivered.
2. Whether DiNardo presented sufficient evidentiary-quality information to rebut the presumption of proper service and thereby establish that the trial court lacked personal jurisdiction.
3. Whether the trial court properly denied DiNardo's motion to vacate the default judgment and dismiss for lack of personal jurisdiction.

HOLDINGS

1. Service by ordinary mail was properly perfected because certified-mail service was returned unclaimed, the clerk entered the ordinary-mail service and answer date on the docket, the summons was sent to an address where there was a reasonable expectation of delivery to DiNardo, and the mailing was not returned undelivered.
2. DiNardo failed to rebut the presumption of proper service because he did not present sufficient evidentiary-quality information demonstrating that service was not accomplished and failed to appear at the hearing set to address service.
3. The trial court had personal jurisdiction over DiNardo and properly denied his motion to vacate and dismiss for lack of personal jurisdiction; the default judgment was therefore valid.

KEY QUOTATIONS

“There is a rebuttable presumption of proper service when the civil rules governing service are followed.” (II)

“Therefore, we find that Lofty perfected service on DiNardo and the trial court’s grant of default judgment was proper.” (II)

FACTUAL BACKGROUND

Lofty purchased real estate from 656 East 126th Ltd. for \$74,280 and alleged that the seller and DiNardo knew of an existing lead hazard that had not been remedied before the sale. Lofty attempted service on DiNardo several times, including certified mail, sheriff service, and finally ordinary mail to 450 Kenwood Drive, Apartment B, in Euclid. The ordinary-mail envelope was not returned as undelivered, and the record also showed that DiNardo accepted certified-mail service at the same address in an unrelated garnishment case in February 2024. DiNardo did not answer or appear at the evidentiary hearing concerning service.

PROCEDURAL HISTORY

Lofty filed a complaint in October 2023 concerning an alleged lead hazard in real property sold by 656 East 126th Ltd. After several unsuccessful service attempts, Lofty served DiNardo by ordinary mail at the Kenwood Drive address in April 2024. DiNardo did not answer, and after multiple extensions and opportunities to contest

service, the trial court granted default judgment as to liability, denied DiNardo's motion to vacate for lack of personal jurisdiction, and ultimately entered judgment for \$68,529.50. The appellate court affirmed.

DISPOSITION

affirmed

CASES CITED

- Maryhew v. Yova, 11 Ohio St.3d 154, 156 (1984)
- Lincoln Tavern, Inc. v. Snader, 165 Ohio St. 61, paragraph one of the syllabus (1956)
- Westmoreland v. Valley Homes Mut. Hous. Corp., 42 Ohio St.2d 291, 294 (1975)
- Patton v. Diemer, 35 Ohio St.3d 68, paragraph three of the syllabus (1988)
- Broadvox, L.L.C. v. Oreste, 2009-Ohio-3466, ¶ 12 (8th Dist.)
- State ex rel. Ballard v. O'Donnell, 50 Ohio St.3d 182 (1990)
- State v. Mbodji, 2011-Ohio-2880, ¶ 10
- State v. Holbert, 38 Ohio St.2d 113 (1974)
- Kauffman Racing Equip., L.L.C. v. Roberts, 2010-Ohio-2551, ¶ 27
- White, 2024-Ohio-737, ¶ 17
- Sosic v. Stephen Hovancsek & Assocs., Inc., 2021-Ohio-2592, ¶ 21 (8th Dist.)
- Belovich v. Crowley, 2021-Ohio-2039, ¶ 31 (8th Dist.)
- Roscoe v. Delfraino, 2019-Ohio-5253, ¶ 25 (7th Dist.)
- Draghin v. Issa, 2013-Ohio-1898, ¶ 10 (8th Dist.)
- Grant v. Ivy, 69 Ohio App.2d 40, 42 (10th Dist. 1980)
- Koziol v. Refe, 1993 Ohio App. LEXIS 5925, *8 (11th Dist. Dec. 10, 1993)
- Gen. Motors Acceptance Corp. v. Kollert, 33 Ohio App.3d 274 (9th Dist. 1986)
- McWilliams v. Schumacher, 2013-Ohio-29, ¶ 51 (8th Dist.)
- Thompson v. Bayer, 2011-Ohio-5897, ¶ 23 (5th Dist.)
- Rafalski v. Oates, 17 Ohio App.3d 65, 66 (8th Dist. 1984)
- Cox v. Franklin, No. 32982 (8th Dist. Jan. 10, 1974)
- Hayes v. Kentucky Joint Stock Land Bank, 125 Ohio St. 359, 365 (1932)
- Black v. Barany, 1982 Ohio App. LEXIS 12131, *21 (8th Dist. Sept. 30, 1982)
- Krabill v. Gibbs, 14 Ohio St.2d 1 (1968)
- Baldine v. Klee, 14 Ohio App.2d 181 (11th Dist. 1968)
- Smith v. White, 2024-Ohio-737