UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1733

NANCY LEVINE,

Plaintiff – Appellant,

v.

THE YANKEE CANDLE COMPANY, INC.,

Defendant – Appellee,

and

JANE DOE,

Defendant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Paula Xinis, District Judge. (8:24-cv-02954-PX)

Submitted: May 29, 2026 Decided: August 19, 2026

Before THACKER and HARRIS, Circuit Judges, and KEENAN, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Raymond Jerome Vanzego, Jr., LAW OFFICE OF R J. VANZEGO, JR, Upper Marlboro, Maryland, for Appellant. Glenn A. Gordon, Bridget Brodie, MILES & STOCKBRIDGE P.C., Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Plaintiff Nancy Levine asks this court to revive her suit against defendant Yankee Candle, Inc. The district court dismissed Levine's action because she failed to timely serve Yankee Candle. We see no ground for disturbing the district court's determination and we affirm its judgment.

Levine's suit alleges that on December 30, 2020, an unidentified employee at a Yankee Candle retail store sprayed a COVID-19 aerosol disinfectant "in [Levine's] direct proximity," causing her "multiple injuries." Complaint, *Levine v. Yankee Candle*, No. 8:24-cv-02954-PX (D. Md. Oct. 10, 2024), ECF No. 1-1 at 3. Almost three years later, with a day left before expiration of the three-year limitations period, Levine sued Yankee Candle and a "Jane Doe" defendant – the unidentified employee – in Maryland state court, alleging one count of state-law negligence. *Id.* at 3–4; *see Levine v. Yankee Candle*, 2025 WL 1676967, at *1 (D. Md. June 13, 2025).

The clerk of the Maryland court issued two writs of summons, which by law would expire if not served on the defendants within 60 days. Levine did not serve either defendant with process within the 60-day period. Instead, she requested that the clerk renew the writs of summons, restarting the 60-day clock. The clerk did so, and Levine again failed to serve the summons before they expired. *Levine*, 2025 WL 1676967, at *1.

Accordingly, the clerk of the Maryland court issued a notice of contemplated dismissal pursuant to Maryland Rule 2-507, which provides that "[a]n action against any defendant who has not been served or over whom the court has not otherwise acquired jurisdiction is subject to dismissal . . . at the expiration of 120 days from the issuance of

original process directed to that defendant." Md. Rule 2-507(b). The notice advised Levine that her action would be dismissed within 30 days unless she filed "a written motion showing good cause to defer the entry of the order of dismissal." J.A. 19; *Levine*, 2025 WL 1676967, at *1.

Levine timely filed an "Opposition to Notice of Contemplated Dismissal." Levine had not timely served the defendants, she explained, for a combination of reasons involving a "hack[]" of her counsel's computer, counsel's failure to discover the reissued summons in his "junk mail" folder, and counsel's difficulty accessing those documents. J.A. 21–22; *Levine*, 2025 WL 1676967, at *1. Levine argued that dismissal of her action would cause "extreme prejudice" and asked that the summonses be once again reissued. J.A. 22.

The Maryland court "reserved for disposition" the notice of contemplated dismissal and Levine's opposition. J.A. 26. It agreed, however, to reissue the summons, warning Levine that if the defendants were not served within that third 60-day period, the court would dismiss her case. This time, Levine served Yankee Candle within 60 days.[1]

Yankee Candle removed the case to the District of Maryland and moved to dismiss Levine's complaint under Maryland Rule 2-507(b) for failure to timely effect service. Levine opposed dismissal, arguing that the Constitution's Full Faith and Credit Clause, U.S. Const. Art. IV § 1, and the Full Faith and Credit Act of 1948 (the "Act"), 62 Stat. 947 (codified at 28 U.S.C. § 1738), required the district court to enforce the Maryland state

[1] Levine never served Jane Doe in state court, and Jane Doe did not appear in the district court proceedings.

court's decision not to dismiss Levine's complaint. Levine also presented general statistics about computer hacks among law firms, apparently to bolster her account of the original delay in serving Yankee Candle.

The district court granted Yankee Candle's motion and dismissed Levine's complaint without prejudice. *Levine*, 2025 WL 1676967, at *1. Applying Maryland Rule 2-507 and the state case law interpreting it, the court held that Levine had "failed to demonstrate sufficient diligence to withstand dismissal, and that the equities weigh[ed] in favor of" dismissal. *Id.* at *3. First, the court reasoned, the lengthy eight-month delay in effectuating service, combined with three-year delay in filing suit just before expiration of the limitations period, "cut[] decidedly in favor of dismissal." *Id.* It was not fair, the court reasoned, to make Yankee Candle defend this action – in which the employee allegedly at fault for a single incident had yet to be identified – four years after its occurrence. *Id.* Second, the court continued, there was nothing in the record to suggest that Levine exercised "any modicum of diligence to attempt service," which would have required only "mail[ing] a letter." *Id.* And finally, the district court found that Levine's "proffered reasons for failing to effect service defy credulity." *Id.*

The district court rejected Levine's argument that full faith and credit principles compelled it to deny dismissal, in deference to the Maryland court's pre-removal decisions. Instead of issuing a final judgment entitled to preclusive effect, the district court explained, the state court "simply reserve[d] for disposition Levine's opposition to the contemplated dismissal" and "left for another day the determination of whether dismissal for lack of service is ultimately warranted." *Id.* at *4 (internal quotation marks omitted).

Levine timely appealed the district court's dismissal of her complaint. We affirm the judgment of the district court.

First, we see no error in the district court's ruling that Levine's complaint should be dismissed for lack of timely service under Maryland Rule 2-507(b). The district court properly looked to Maryland state law to decide this question, as "the validity of service prior to removal is determined by the law of the state under which service was made." *Brazell v. Green*, 67 F.3d 293, at *1 (4th Cir. 1995) (unpublished) (citing 4A Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1082 (1987)). Under the applicable Maryland state-law rule, Rule 2-507, the trial court must "weigh and balance the rights, interests, and reasons of the parties in light of the public demand for prompt resolution of litigation" to determine whether to dismiss the case. *Reed v. Cagan*, 739 A.2d 932, 935 (Md. Ct. Spec. App. 1999). And its "primary focus . . . should be on diligence and whether there has been a sufficient amount of it." *Id.* Maryland law commits such determinations "to the sound discretion of the trial court," permitting appellate courts to overturn that decision "only in extreme cases of clear abuse." *Id.* (internal quotation marks omitted).

The district court applied the proper standard here. *See Levine*, 2025 WL 1676967, at *2–4. As discussed above, it considered, for instance, that Levine delayed for eight months in serving Yankee Candle – after waiting until the second-to-last day of the three-year limitations period to sue in the first place – and that she had not "exercised any modicum of diligence to attempt service." *Id.* at *3. It also doubted Levine's proffered reasons for her delay, pointing out numerous inconsistencies in her counsel's explanation

for why a "single supposed computer 'hack'" in April 2024 prevented him from effecting service at any point between January and September 2024. *Id.* at *3–4. And while Levine objects that the district court failed to identify any specific evidence of "substantial[] prejudice[]" to Yankee Candle, *see Reed*, 739 A.2d at 936 (internal quotation marks omitted), Maryland law does not require such a showing when there has been an unjustified and lengthy delay in effectuating service, *id.* – which the district court found here. *See Levine*, 2025 WL 1676967, at *3. We see no "clear abuse" in the district court's analysis.

We also agree with the district court that nothing in the Full Faith and Credit Clause or the Full Faith and Credit Act precluded this dismissal. As the district court noted, federal courts are bound only by the Full Faith and Credit Act, not by the Full Faith and Credit Clause of the Constitution. *Levine*, 2025 WL 1676967, at *4 n.4; *see In re Genesys Data Techs., Inc.*, 204 F.3d 124, 127 (4th Cir. 2000). And in any event, we agree with the district court that there was no final determination by a state court entitled to full faith and credit of any kind. Contrary to Levine's claims in her briefing, the Maryland state court did not actually decide whether Levine's suit should be dismissed under Maryland Rule 2-507(b) or whether Levine's later service was proper. *See* Md. Rule 2-507(b). Instead, it "reserve[d]" the question of dismissal for later "disposition." J.A. 26. The district court was perfectly entitled to decide, in an exercise of its unchallenged removal jurisdiction, a question the state court had reserved. *Levine*, 2025 WL 1676967, at *4.

On appeal, Levine raises multiple additional objections to the district court's order. But as Yankee Candle argues, Levine raised none of those arguments before the district court, and she has therefore forfeited them on appeal. *See Robinson v. Equifax Info. Servs.,*

LLC, 560 F.3d 235, 242 (4th Cir. 2009) ("Absent exceptional circumstances, of course, we do not consider issues raised for the first time on appeal." (internal quotation marks omitted)). Levine does not explain how failure to consider her forfeited arguments would "result in a miscarriage of justice," and we do not think that standard could be met here. *Id.* (internal quotation marks omitted).

Accordingly, we affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED