Circuit Court for Frederick County
Case No. C-10-CV-20-000551

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1768

September Term, 2024

NICOLE PETERS-HUMES

v.

LAFAYETTE FEDERAL CREDIT UNION

Berger,
Beachley,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: January 27, 2026

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This case is the latest in a series of appeals in which appellant Nicole Peters-Humes ("Peters-Humes") challenges appellee Lafayette Federal Credit Union's ("LFCU") actions both during the foreclosure process and at the time she and her ex-husband George Humes ("Humes") entered into the initial loan agreement with LFCU in 2004. LFCU initiated the present case on October 19, 2020 by filing a breach of contract action against Peters-Humes and Humes in the Circuit Court for Frederick County. In response, Peters-Humes lodged various counterclaims against LFCU which the circuit court subsequently dismissed. We first considered the circuit court's dismissal of Peters-Humes's counterclaims in *Peters-Humes v. Lafayette Federal Credit Union* ("*Peters-Humes I*"), No. 184, Sept. Term, 2022 (App. Ct. Md. Aug. 28, 2023) (unreported). In *Peters-Humes I* we affirmed the circuit court's dismissal of all counts save Peters-Humes's claim under the Maryland Consumer Protection Act (the "MCPA"), Md. Code (1975, 2013 Repl. Vol.), Title 13 of the Commercial Law Article ("CL") after concluding that such claim was not time barred.

As discovery progressed on remand, LFCU again filed a motion to dismiss Peters-Humes's MCPA claim. By order dated July 16, 2024, the circuit court denied LFCU's motion to dismiss, allowing Peters-Humes time to amend her counterclaims. Thereafter, Peters-Humes filed Amended Counterclaims on August 1, 2024, in which she included new facts and added an allegation that LFCU violated the Maryland Consumer Debt Collection Act (the "MCDCA"), Md. Code (1975, 2013 Repl. Vol.), Title 14, Subtitle 2 of the Commercial Law Article ("CL"). That same day, LFCU renewed its motion to dismiss Peters-Humes's counterclaims. After a hearing on September 4, 2024, the circuit court granted LFCU's renewed motion to dismiss. Thereafter, the circuit court denied Peters-

Humes's Motion to Alter or Amend Judgment and Request for Hearing on October 8, 2024, without holding a hearing. Peters-Humes noted a timely appeal.

On appeal, Peters-Humes presents four questions for our review, which we consolidate into three and rephrase as follows:[1]

I. Whether the circuit court erred in dismissing Peters-Humes's counterclaims after accepting LFCU's renewed arguments and not treating LFCU's motion to dismiss as a motion for summary judgment.

II. Whether the circuit court abused its discretion by denying Peters-Humes's motion to amend without granting a hearing.

[1] Peters-Humes phrased the questions as follows:

1. Did the circuit court err in dismissing Appellant's claims under the Maryland Consumer Protection Act (MCPA) based on arguments previously rejected by the same court, where the motion relied on unauthenticated evidence, contradicted the Appellate Court's remand, and failed to comply with procedural requirements under Md. Rules 2-322 and 2-501?

2. Did the circuit court abuse its discretion or misapply the law by dismissing the MCPA and MCDCA claims without treating the renewed motion as one for summary judgment, despite the introduction of materials outside the pleadings and the absence of a requited affidavit?

3. Did the circuit court violate Md. Rule 2-311(f) and abuse its discretion by denying Appellant's timely motion to amend her pleadings without affording the requested hearing?

4. Did the circuit court's reassignment of multiple judges, issuing conflicting procedural orders, and dismissing the case without a written explanation following a hearing violate Appellant's due process rights and constitute reversible error?

III. Whether the circuit court's contemporaneous and allegedly inconsistent judicial actions violated Peters-Humes's right to due process.

For the reasons explained herein, we affirm.

BACKGROUND

This appeal arises from counterclaims lodged by Peters-Humes against LFCU and others after LFCU brought a breach of contract action against Peters-Humes and Humes in the Circuit Court for Frederick County. The circuit court initially dismissed all Peters-Humes's counterclaims. We gave the full history of the case up to that point in *Peters-Humes I*, which we recap briefly and resume from there.[2]

Relevant Background and the First Appeal

In *Peters-Humes I*, we recounted the pertinent background as follows:

> On May 28, 2004, Peters-Humes and . . . Humes, as borrowers/mortgagors, and LFCU, as lender/mortgagee, entered an Adjustable-Rate Balloon ("ARM") note for $468,000 secured by real property owned by Peters-Humes and Humes located in Bowie, Maryland ("the Subject Property") in Prince George's County. On the same day, Peters-Humes and Humes entered into a fixed loan agreement issued by LFCU for $50,000. On May 9, 2005, Peters-Humes entered into an adjustable-rate loan issued by LFCU for $628,000, which was secured by the Subject Property. A deed of trust for the Subject Property filed May 25, 2006 shows the new loan paid off the original loan.
>
> Peters-Humes . . . assumed she would be able to modify her 2005 loan, if needed, based on her long-standing

[2] In addition to *Peters-Humes I*, we have also addressed two of Peters-Humes's appeals related to foreclosure proceedings in the Circuit Court for Prince George's County. *See Peters-Humes v. Theologou*, No. 300, Sept. Term, 2022 (App. Ct. Md. Feb. 9, 2023) (unreported); *Peters-Humes v. Theologou*, No. 369, Sept. Term, 2024 (App. Ct. Md. Sept. 4, 2025) (unreported).

> relationship with LFCU and communications with LFCU personnel, including Renee Thompson ("Thompson"), in which Peters-Humes alleged she was told LFCU would be amenable to subsequent modifications. In June of 2015, Peters-Humes claimed she communicated to Thompson the desire to refinance the loan, but no such modification occurred.
>
> In 2016, Peters-Humes and Humes defaulted on the note and the terms of the deed of trust. On March 8, 2017, LFCU filed for foreclosure in the Circuit Court for Prince George's County. . . .
>
> In April 2017, Peters-Humes claimed she again sought to modify the loan, submitting a modification application on her own and then doing the same a month later with the assistance of a Department of Housing and Urban Development Housing Counselor. Peters-Humes received no response to either request. LFCU and Peters-Humes attended foreclosure mediation on September 25, 2017, at which point LFCU informed Peters-Humes that no such modification would occur. The mediator filed the mediation report on September 28, 2017.
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> On July 31, 2018, the Subject Property was sold in a foreclosure sale. The Circuit Court for Prince George's County ratified the sale on November 21, 2018. Diana C. Theologou ("Theologou"), as Trustee under the Deed of Trust, filed the suggested account on December 7, 2018. The court ratified the foreclosure audit on January 25, 2019.
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> . . . [N]either Peters-Humes nor Humes filed exceptions or otherwise challenged the foreclosure proceedings prior to ratification.

Peters-Humes I, slip. op. at 2-3.

Further, we discussed the inception of the current action in *Peters-Humes I*:

> On October 19, 2020, LFCU filed in the Circuit Court for Frederick County a two-count complaint for breach of contract, alleging Peters-Humes and Humes defaulted on debts of $40,080.55 and $290,864.18, respectively and thus was entitled to the balance of those debts plus interest and fees. On

> February 5, 2021, Peters-Humes filed an answer, along with numerous counterclaims against LFCU. On March 25, 2021, Peters-Humes filed an Amended Counterclaim asserting claims against the appellees in this dispute -- LFCU and its subsidiary Preferred Business XChange d/b/a PBX Settlement Services, LLC, as well as Theologou and Thompson -- alleging: (1) fraud; (2) breach of contract; (3) negligence per se; (4) abuse of process; (5) infliction of emotional and mental distress; (6) violation of the [MCPA]; (7) satisfaction of debt; (8) declaratory relief; and (9) unjust enrichment. The appellees subsequently filed motions to dismiss, and the Circuit Court for Frederick County held a hearing regarding those motions on May 26, 2021.
>
> During the hearing, the circuit court determined that nearly all, if not all, of Peters-Humes's counterclaims were barred by either the statute of limitations or as a matter of res judicata due to their correlation to the foreclosure action that was since ratified by the Circuit Court for Prince George's County.

Id. at 4-5.

At the conclusion of the hearing, the circuit court ruled from the bench that the statute of limitations had run on all claims except possibly the MCPA claim against LFCU. The circuit court

> surmised that -- assuming Peters-Humes's MCPA claim was based on LFCU and its employees allegedly inducing Peters-Humes to enter the loan by misleading her into thinking she could modify the loan later -- Peters-Humes would have discovered she had been misled by the time the bank filed for foreclosure because, by this point, it would be obvious that no modification would occur. As such, she would have been "on notice" of the potential MCPA claim "at the latest September 28, 2017."

Id. at 5. This conclusion was based on Peters-Humes's March 25, 2021 Amended Counterclaims ("2021 Counterclaims") in which she alleged she had entered into the May

28, 2004 loan under the assumption that she could refinance for a fixed loan later. Further, in her 2021 Counterclaims, Peters-Humes alleged that she first requested a loan modification from LFCU in June 2015. The circuit court asked the parties for additional briefing regarding the statute of limitations issues related to the MCPA claim.

On February 28, 2022, the circuit court held another hearing on the sole issue of the statute of limitations for Peters-Humes's MCPA claim. As we explained in *Peters-Humes I*, "[t]he court ruled that, due to the three-year limitations period for MCPA claims, Peters-Humes's claim was time barred, even with the tolling of all statutes of limitations during the statewide court closures prompted by the COVID-19 pandemic" and issued an order dismissing the remaining MCPA claim against LFCU. *Id.* at 5. Peters-Humes noted a timely appeal.

In an unreported opinion filed on August 28, 2023, this Court reversed the circuit court's dismissal of Peters-Humes's MCPA claim and remanded the case for further proceedings. We first addressed the nature of Peters-Humes's MCPA counterclaim and determined that res judicata did not bar the claim:

> In this counterclaim, Peters-Humes alleged that LFCU engaged in unfair and deceptive trade practices by leading her to believe that LFCU would at some later point modify her loan if such a modification became necessary, thus inducing Peters-Humes and Humes into entering the loan agreement. Based on the facts alleged, this appears to be an actionable claim upon which the circuit court ruled and Peters-Humes timely appealed. Further, the operative facts undergirding the claim are not so tied to the foreclosure matters and are sufficiently distinct such that the claim is not barred by res judicata. We view entering the loan as sufficiently distinct from the later default and foreclosure proceedings.

Id. at 12. We then concluded that, viewed in the light most favorable to Peters-Humes, her MCPA claim accrued on September 28, 2017 upon the filing of the foreclosure mediation meeting report. We went on to explain that, although a three-year statute of limitations period applies to MCPA claims, the circuit court erred in applying the COVID-19 Administrative Orders tolling the statute of limitations. As such, we concluded that Peters-Humes's MCPA claim was not time barred and remanded the case for further proceedings.

Post-Remand

Upon remand, the parties proceeded through discovery. On May 30, 2024, LFCU filed a motion to dismiss Peters-Humes's counterclaim on five grounds: failure to state a claim, failure to plead fraud with particularity, the statute of frauds, res judicata, and the statute of limitations. In support of its motion, LFCU attached portions of Peters-Humes's deposition transcript. LFCU did not include an affidavit with its motion to dismiss.

The circuit court, with Judge Brubaker presiding, held a hearing regarding LFCU's motion to dismiss on July 15, 2024.[3] During the hearing, Peters-Humes stated that she had "attempted several times" in "2006, 2008, maybe 2015, and even -- and then in 2017 to try and get the loan modified." Judge Brubaker denied LFCU's motion to dismiss stating:

> Out of an abundance of caution and attempting to figure out what allegations may apply to which provisions of the [MCPA], because there are allegations with respect to 2004 and 2005, but also some with respect to 2018[,] I will deny at this time the motion to dismiss, subject to it being refiled when the amended pleading is filed[.]

[3] The hearing transcript indicates that Judge Martz-Fisher presided over the July 15, 2024 hearing. Nevertheless, the hearing sheet, resulting order, and Peters-Humes's brief indicate that it was in fact Judge Brubaker who presided. Accordingly, we state here that Judge Brubaker was presiding.

Thereafter, on August 1, 2024, Peters-Humes filed Amended Counterclaims ("Amended Counterclaims"). Therein, Peters-Humes alleges that "[b]efore the foreclosure in 2017, from 2008 to 2015, [she] and Humes made several requests and attempts to modify their interest-only loan as LFCU represented they would be able to do." Further, the Amended Counterclaims include two counts against LFCU, PBX Settlement Services, LLC, Theologou, and Thompson. First, Peters-Humes alleges that LFCU violated the MCPA by conducting unfair practices, namely informing her "before and after the execution of the [loan], that she and Humes could seek a loan modification and fail[ing] to effectuate a review or genuinely consider her for the same despite [her] repeated requests." Specifically, Peters-Humes alleges that

> [o]n May 10, 2017, Thompson, via email, several times misrepresented that LFCU's Committee was reviewing the requested modification application [Peters-Humes] completed in April 2017. Thompson and other employees knew this representation was false . . . . and Thompson intended that [Peters-Humes] act on them to her detriment in violation of the MCPA.

Peters-Humes further alleges that "she was led to believe that her Loss Mitigation Application," which was sent in March or April of 2017 as part of the foreclosure process, "was being considered until she discovered" that the Subject Property had been sold in a foreclosure sale.

Second, Peters-Humes maintains that LFCU violated the MCPA and MCDCA by "seeking debts it knew it had no right to collect." Peters-Humes contends that, although LFCU dismissed the breach of contract claims against her, the initiation of the lawsuit

violated the MCPA and MCDCA because it constituted an unlawful "threat to enforce a right that" LFCU knew did not exist. Alternatively, Peters-Humes argues that, by filing the breach of contract action, LFCU violated the provision of the MCPA prohibiting "[d]eception, fraud, false pretense, false premise, misrepresentation, or knowing . . . omission of any material fact with the intent that a consumer rely on the same."

That same day, LFCU renewed its motion to dismiss Peters-Humes's counterclaims. A hearing regarding the motion was held on September 4, 2024, with Judge Rolle presiding. During the hearing, LFCU argued that dismissal was warranted for four reasons. First, LFCU contended that the statute of frauds precludes Peters-Humes's counterclaims. LFCU reasoned that Peters-Humes's counterclaims are based on an alleged oral promise that she would later be able to modify her loan, which according to Peters-Humes was breached when she was unable to modify her loan with LFCU. Second, LFCU asserted that Peters-Humes's Amended Counterclaims fail to state a claim upon which relief can be granted because LFCU modified her loan in 2006 and did not prevent her from seeking refinancing at alternative financial institutions. Third, LFCU argued that Peters-Humes's counterclaims are barred by res judicata to the extent that they are based on alleged deception during the foreclosure process, namely the denial of the loss mitigation application. Fourth, and finally, LFCU contended that Peters-Humes's counterclaims are barred by the statute of limitations, reasoning that Peters-Humes's Amended Counterclaims -- which state that she sought modification multiple times from 2008 to 20015 -- change the calculus of when her cause of action accrued.

At the conclusion of the hearing, the judge ruled from the bench:

> Okay, [the first loan] done in 2004, refinanced in 2006. [Peters-Humes] is alleging some sort of breach of verbal contract in this case . . . where she's alleging that [LFCU] had made some . . . verbal promises to her back when the loan was originally or -- done or refinanced. There's nothing in writing at all. So [LFCU's] argument about the statute of frauds certainly bears weight in this case. This is now 2024.
>
> The Court finds that [Peters-Humes] has not stated a claim upon which relief can be granted. The Court finds that res judicata is indicated and, also, the statute of limitations has -- has not been met with. So therefore the motion to dismiss the counterclaim is granted.

After the judge ruled, Peters-Humes questioned the ruling, explaining that she was "not arguing that there was a breach of contract"; rather she was "asserting a [MCPA]" claim "of unfair practices" that occurred in 2017. Further, Peters-Humes contended that she "wasn't barred by statute of limitations" because of this Court's decision in *Peters-Humes I*. The judge responded that, based "on the arguments of [LFCU]," Peters-Humes "failed to state a claim upon which relief can be granted, res judicata, and the statute of limitations. For those three reasons, [LFCU's] motion [to dismiss] has been granted."

Thereafter, on September 13, 2024, Peters-Humes filed a Motion to Alter or Amend Judgment and Request for Hearing ("motion to alter or amend"). Without a hearing, the circuit court denied Peters-Humes's motion to alter or amend by order dated October 8, 2024. Peters-Humes noted a timely appeal. We shall provide additional facts as needed in our forthcoming discussion.

DISCUSSION

I. The circuit court did not err in granting LFCU's renewed motion to dismiss.

We first address Peters-Humes's challenge to the circuit court's grant of LFCU's renewed motion to dismiss. We review "the grant of a motion to dismiss for legal correctness." *Rounds v. Md.-Nat'l Cap. Park & Plan. Comm'n*, 441 Md. 621, 635 (2015) (citing *Patton v. Wells Fargo Fin. Md., Inc.*, 437 Md. 83, 95 (2014)). In so doing, we "assume[] the truth of the complaint's factual allegations, and any reasonable inferences, in the light most favorable to the [nonmovant]." *Patton*, 437 Md. at 95 (2014) (citing *Bobo v. State*, 346 Md. 706, 708 (1997)). As we explained in *Peters-Humes I*:

> "Motions to dismiss are generally granted in cases where 'there [is] no justiciable controversy[.]" *Litz v. Md. Dep't of Env't*, 434 Md. 623, 641 (2013) (quoting *Broadwater v. State*, 303 Md. 461, 467 (1985)). Therefore, "[a] motion to dismiss may be granted only 'where the allegations presented do not state a cause of action.'" [*Hancock v. Mayor & City Council of Balt.*, 480 Md. 588, 603 (2022)] (quoting *Wheeling v. Selene Fin. LP*, 473 Md. 356, 374 (2021)).
>
> Ordinarily, a motion to dismiss should not be granted by a trial court solely based on the assertion that the "cause of action is barred by the statute of limitations[,] unless it is clear from the facts and allegations on the face of the complaint that the statute of limitations has run." *Rounds v. Md.-Nat'l Cap. Park & Plan. Comm'n*, 441 Md. 621, 655 (2015) (quoting *Litz v. Md. Dep't of the Env't*, 434 Md. 623, 641 (2013)). Depending on the nature of the claims being made, determining whether the action is time barred may be a question of law, solely of fact, or of both law and fact. *Doe v. Archdiocese of Wash.*, 114 Md. App. 169, 178 (1997). . . . . "[] [W]here it is unclear from the facts and allegations on the face of the" complaint what the nonmoving party knew and when they knew it, a question of fact exists that is "appropriate for the fact finder, not the appellate court." *Rounds*, *supra*, 441 Md. at 658.

Peters-Humes I, slip. op. at 6-7.

The circuit court granted LFCU's renewed motion to dismiss citing three reasons: failure to state a claim upon which relief can be granted, res judicata, and the statute of limitations. Peters-Humes asserts that the circuit court erred in dismissing her Amended Counterclaims because her MCPA claim is separate and distinct from the foreclosure action because it is related to pre-foreclosure misrepresentations, improper servicing, and unlawful post-foreclosure debt collection. Peters-Humes reasons that, because this Court previously determined that her MCPA claim was timely and remanded it for further proceedings in *Peters-Humes I*, and because the circuit court previously denied LFCU's motion to dismiss after remand, the renewed motion to dismiss "merely repackaged previously rejected theories" and therefore should have been denied.[4] LFCU counters that dismissal was warranted for three reasons: res judicata, Peters-Humes's failure to plead fraud with particularity, and the statute of limitations. We shall address each of LFCU's theories in turn.

A. Res judicata

First, LFCU argues that res judicata bars Peters-Humes's claims to the extent that they challenge LFCU's conduct during the foreclosure proceedings. LFCU contends that, contrary to Peters-Humes's assertions, such a conclusion is reconcilable with our decision

[4] Additionally, Peters-Humes contends that the circuit court erred by concluding that the statute of frauds applies to her counterclaims because she was not seeking to enforce the alleged oral promise to modify the mortgage. Because the circuit court ultimately did not base its dismissal on the statute of frauds, we decline to address whether the statute of frauds applies to Peters-Humes's Amended Counterclaims.

in *Peters-Humes I* which addressed only Peters-Humes's then-operative pleading challenging allegedly deceptive practices which induced her to enter the loan. We agree with LFCU.

As we explained in *Peters-Humes I*,

> In Maryland, mortgagors have three means to challenge a foreclosure: (1) by pursuing a pre-sale injunction; (2) by filing post-sale exceptions to the ratification; and (3) by "filing of post-sale ratification exceptions to the auditor's statement of account." *Wells Fargo Home Mortg., Inc. v. Neal*, 398 Md. 705, 726 (2007). Further, the effect of a final ratification on a foreclosure sale "is res judicata as to the validity of such [a] sale, except in the case of fraud or illegality." *Pulliam v. Dyck-O'Neal, Inc.*, 243 Md. App. 134, 144 (2019) (italics removed). Under the doctrine of "res judicata," a judgment in an earlier case on the merits is an absolute bar to a second suit between the same parties and upon a cause of action that was or could have been litigated in the original suit. *See RDC Melanie Drive, LLC v. Eppard*, 474 Md. 547, 567 (2021) (citing *MPC, Inc. v. Kenny*, 279 Md. 29, 32 (1977)).

Peters-Humes I, slip op. at 10.

Here, Peters-Humes's Amended Counterclaims expressly challenge, in part, the foreclosure process. First, Peters-Humes challenges LFCU's handling of her loss mitigation application. Peters-Humes contends that, although LFCU told her it was considering her loss mitigation application, LFCU did not, in fact, analyze her application in accordance with Maryland's foreclosure procedures. As Peters-Humes's allegations suggest, the loss mitigation application process is part and parcel of the foreclosure process. *See* Md. Code (1974, 2023 Repl. Vol.), § 7-105.1 of the Real Property Article ("RP") (outlining required foreclosure procedures, including a loss mitigation analysis).

Accordingly, Peters-Humes's claims related to LFCU's treatment of her loss mitigation application are barred by res judicata and were properly dismissed.

Similarly, Peters-Humes's allegation in count two that LFCU violated the MCPA and MCDCA by initiating the underlying breach of contract suit against her and Humes is barred by res judicata.[5] In its initial complaint, LFCU alleged that Peters-Humes and Humes breached their loan agreement with LFCU secured by the Subject Property. Specifically, LFCU's allegation stemmed from the deficiency that the auditor reported as part of the foreclosure procedures. *See Peters-Humes v. Theologou*, No. 300, Sept. Term, 2022 (App. Ct. Md. Feb. 9, 2023) (unreported). Peters-Humes contends that, because LFCU subsequently filed a "Certificate of Satisfaction" regarding the Subject Property, LFCU's initiation of the breach of contract action constituted an unlawful collection practice in violation of the MCDCA and MCPA. Because, however, whether or not LFCU was entitled to the deficiency at the root of its breach of contract claim is inextricably intertwined with the foreclosure proceedings, Peters-Humes could have brought her claim regarding LFCU's entitlement to the deficiency during the foreclosure proceedings.

[5] LFCU raised two counts against Peters-Humes and Humes in its initial Complaint, filed on October 19, 2020. The first count alleged that Peters-Humes and Humes breached a loan agreement secured by real property in Oklahoma. On November 20, 2020, LFCU voluntarily dismissed count one. Unlike the second count, for which Peters-Humes attached a "Certificate of Satisfaction," Peters-Humes's Amended Counterclaims do not allege that LFCU had no right to the alleged amount due on the loan secured by the Oklahoma property. *See Chavis v. Blibaum & Assocs., P.A.*, 476 Md. 534, 554 (2021) ("To prove a claim under this provision of the MCDCA [(CL § 14-202(8))], a complainant must establish two elements: (1) the debt collector 'did not possess the right to collect the amount of debt sought'; and (2) the debt collector 'attempted to collect the debt knowing that [it] lacked the right to do so.'"). Accordingly, we do not address Peters-Humes's challenge to count one of LFCU's initial complaint.

Peters-Humes's allegations in count two, therefore, are barred by res judicata and were properly dismissed by the circuit court.

B. Failure to plead fraud with particularity

Second, LFCU contends that dismissal was warranted because Peters-Humes failed to plead fraud with particularity. Peters-Humes counters that claims under the MCPA do not trigger the heightened pleading standard required for allegations of fraud.

Whether a claim under the MCPA requires a claimant to plead with particularity turns on precisely which section the claimant alleges was violated. As we have explained, under the MCPA

> an "unfair and deceptive trade practice" replicates common-law fraud insofar as it includes "[d]eception, fraud, false pretense, false premise, misrepresentation, or knowing concealment, suppression, or omission of any material fact with the intent that a consumer rely on the same in connection with . . . [t]he promotion or sale of any consumer goods. . . ." [CL § 13-301(9)]. Accordingly, if a party alleges an "unfair or deceptive trade practice" under that specific subsection, [they] must allege fraud with particularity[.]

McCormick v. Medtronic, Inc., 219 Md. App. 485, 493 (2014). In *McCormick*, we went on to explain, however, that

> [u]nder other provisions of the [MCPA] . . . a party can allege an "unfair and deceptive trade practice" without replicating a claim for common-law fraud. For example, an "unfair or deceptive trade practice" may include a "[f]alse, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers" [CL § 13-301(1)], or the "[f]ailure to state a material fact if the failure deceives or tends to deceive." [CL § 13-301(3)]. To prove those violations, it is unnecessary to prove scienter. *Consumer Prot. Div. v. Morgan*, 387 Md. 125,

> 211, 874 A.2d 919 (2005); *Golt v. Phillips*, 308 Md. 1, 10-11, 517 A.2d 328 (1986). It is, therefore, unnecessary to allege those violations with particularity.

Id. at 493-94.

In her Amended Counterclaims, Peters-Humes alleges that LFCU violated three subparts of the MCPA. In count one, Peters-Humes alleges that LFCU violated subsections (1) and (3) of CL § 13-301. As we explained in *McCormick*, these subsections do not "replicat[e] a claim for common-law fraud," therefore Peters-Humes was not required to allege those violations with particularity. 219 Md. App. at 493. Nevertheless, as explained *supra* and *infra*, such claims are barred by res judicata and the statute of limitations.

Count two of Peters-Humes's Amended Counterclaims alleges, as an alternative theory of liability, that LFCU violated subsection (9) of CL § 13-301. In her Amended Counterclaims, Peters-Humes fails to plead the alleged violation of CL § 13-301(9) with particularity. Notably, Peters-Humes does not allege any facts related to LFCU's alleged intent that she rely on its deception or fraud. We, therefore, conclude that Peters-Humes's alternative theory of liability in count two was also properly dismissed because Peters-Humes failed to plead LFCU's violation of CL § 13-301(9) with particularity.

C. Statute of limitations

Third, and finally, LFCU argues that, because Peters-Humes amended her counterclaims to assert that she unsuccessfully requested modification several times between 2008 and 2015, her claim is barred by the statute of limitations. LFCU reasons that this Court's decision in *Peters-Humes I* was based on different facts, namely that Peters-Humes first requested modification in 2015. Peters-Humes's Amended

Counterclaims, however, injected new facts, importantly that Peters-Humes requested -- and was not granted -- a modification almost immediately after entering the loan. Accordingly, LFCU asserts that Peters-Humes would have become aware of LFCU's alleged deception regarding its willingness to modify her mortgage earlier than what was previously determined in *Peters-Humes I*.

We begin our analysis by determining when Peters-Humes's action accrued. As we explained in *Peters-Humes I*,

> "In determining when the actions accrue [for purposes of the statute of limitations], Maryland courts apply the discovery rule, which tolls the accrual of an action until the plaintiff knows or should have known of the injury giving rise to [their] claim." *Litz, supra*, 434 Md. at 640. Under the discovery rule, the accrual of the claim, and thus the triggering of the limitations period, is not dependent upon the occurrence of the injury giving rise to the plaintiff's claim, but instead "the focus is on when the plaintiff *discovered facts* which provide notice of the injury." *Rounds, supra*, 441 Md. at 655. Thus, a plaintiff will be charged with notice, and the statute of limitations will begin to run, upon the plaintiff gaining "knowledge of circumstances which ought to have put a person of ordinary prudence on inquiry." *Iglesias v. Pentagon Title & Escrow, LLC*, 206 Md. App. 624, 666 (2012).

Peters Humes I, slip op. at 17.

Here, to the extent that Peters-Humes's MCPA claim is not barred by res judicata or her failure to plead fraud with particularity as discussed *supra*,[6] we conclude that it is

[6] Because, as discussed *supra*, we conclude that Peters-Humes's MCDCA claim in count two of her Amended Counterclaims is barred by res judicata, we only address the statute of limitations with respect to Peters-Humes's MCPA claim in count one.

barred by the statute of limitations. According to her Amended Counterclaims, the portion of Peters-Humes's MCPA claim not otherwise barred is based on the theory that

> LFCU, through its employees, conducted unfair practices pursuant to the MCPA when it informed [Peters-Humes], before and after the execution of the [loan agreement secured by the Subject Property], that she and Humes could seek a loan modification and failed to effectuate a review or genuinely consider her for the same despite [her] repeated requests.

Our review of the record leads us to conclude that the circuit court did not err in concluding that Peters-Humes's MCPA claim was time barred. Indeed, in her Amended Counterclaims, Peters-Humes alleges she requested that LFCU modify her loan multiple times between 2008 and 2015. Viewed in the light most favorable to Peters-Humes, the alleged deception, therefore, may well have become apparent at any time during this period when LFCU refused to engage with her regarding a modification. As such, by at least 2015, Peters-Humes could be charged with having "knowledge of circumstances which ought to have put a person of ordinary prudence on inquiry" of LFCU's alleged deception. *Iglesias*, 206 Md. App. at 666 (citation omitted).

Having concluded that the limitations period for Peters-Humes's MCPA claim began to run in 2015, we now determine when the limitations period terminated. As we explained in *Peters-Humes I*, claims arising under the MCPA are subject to the "general statute of limitations" of three years. *Peters-Humes I*, slip op. at 16 (citing Md. Code (1974, 2020 Repl.) § 5-101 of the Courts & Judicial Procedure Article). The limitations period for Peters-Humes's MCPA claim, therefore, terminated in 2018 and Peters-Humes's MCPA claim -- which was initially filed in 2021 -- was untimely. Accordingly, we discern

no legal or factual error in the circuit court's conclusion that Peters-Humes's MCPA claim is barred by the statute of limitations.

Because we conclude that the circuit court did not err in dismissing Peters-Humes's Amended Counterclaims as barred by res judicata, her failure to plead fraud with particularity, and the statute of limitations, we do not address LFCU's alternative argument that dismissal was also proper because Peters-Humes failed to state a claim upon which relief can be granted. Accordingly, we need not consider whether the circuit court erred by not treating LFCU's motion to dismiss as a motion for summary judgment.[7]

We are not persuaded by Peters-Humes's argument that the circuit court erred by entertaining LFCU's "repackaged" arguments which were previously rejected by this Court in *Peters-Humes I* as well as by the circuit court when it ruled on LFCU's initial motion to dismiss post-remand. With respect to the latter, Judge Brubaker expressly ruled that LFCU's motion to dismiss was denied subject to refiling after Peters-Humes filed her

[7] Pursuant to Maryland Rule 2-322(c),

> If, on a motion to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 2-501, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 2-501.

Even if the circuit court erred by not converting LFCU's motion to dismiss to a motion for summary judgment, such error would not warrant reversal in light of our conclusion that dismissal was warranted on alternate grounds.

Amended Counterclaims. There was, therefore, no error in granting the renewed motion to dismiss merely because it provided the same arguments.

Further, we disagree with Peters-Humes's argument that the circuit court's dismissal was contrary to our holding in *Peters-Humes I*. To be sure, as LFCU argues, Peters-Humes's Amended Counterclaims injected new facts, namely when Peters-Humes began requesting that LFCU modify her loan. Our decision in *Peters-Humes I* was based on the snapshot encapsulating the proceedings to that point, which notably did not include an allegation that Peters-Humes requested a modification from LFCU multiple times between 2008 and 2015. Because Peters-Humes included new facts in her Amended Counterclaims, the calculus for when the statute of limitations period terminated was altered. Accordingly, we conclude that the circuit court did not err in granting LFCU's renewed motion to dismiss Peters-Humes's Amended Counterclaims.

II. The circuit court did not abuse its discretion by denying Peters-Humes's motion to alter or amend without granting a hearing.

We review a circuit court's "denial of a motion to alter or amend a judgment . . . for abuse of discretion." *Miller v. Mathias*, 428 Md. 419, 438 (2012) (citation omitted). Peters-Humes argues that the circuit court abused its discretion by denying her motion to alter or amend without granting the requested hearing. According to Peters-Humes, the refusal to hold a hearing and consider the proposed amendments on the merits was arbitrary, violated procedural rules, and compounded the due process errors already present in this case. Further, Peters-Humes alleges that, by denying her motion to alter or amend without a hearing, the circuit court violated Maryland Rule 2-311(f) ("Rule 2-311(f)").

LFCU counters that, because the denial of the motion to alter or amend was not a dispositive ruling, the circuit court was not required to grant a hearing prior to denying the motion.

Rule 2-311(f) provides:

> A party desiring a hearing on a motion, other than a motion filed pursuant to Rule 2-532, 2-533, or 2-534, shall request the hearing in the motion or response under the heading "Request for Hearing." The title of the motion or response shall state that a hearing is requested. Except when a rule expressly provides for a hearing, the court shall determine in each case whether a hearing will be held, but the court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested as provided in this section.

Because Peters-Humes filed her motion to alter or amend pursuant to Maryland Rule 2-535 ("Rule 2-535"), the provisions in Rule 2-311(f) apply.

Peters-Humes's argument suffers a fatal flaw identical to that which we recognized in *Peters-Humes v. Theologou* ("*Theologou*"), No. 300, Sept. Term, 2022 (App. Ct. Md. Feb. 9, 2023) (unreported). Indeed, Peters-Humes's request for a hearing did not comply with "the precise format required by . . . Rule 2-311(f)." *Theologou*, slip op. at 12. Although Peters-Humes titled her motion "Defendant/Counterclaim Plaintiffs [sic] Motion to Alter or Amend Judgment and Request for Hearing," the motion did not include a "Request for Hearing" heading as required by Rule 2-311(f). As we explained in *Theologou*, because Peters-Humes did not request "a hearing in the precise format required by . . . Rule 2-311(f), the circuit court was not required to set the matter in for a hearing prior to ruling upon [Peters-Humes's motion]." *Id.*

Even if Peters-Humes's motion to alter or amend had complied with the requirements of Rule 2-311(f), our conclusion would be the same. Notably, as LFCU contends, the circuit court's denial of Peters-Humes's motion to alter or amend does not constitute a dispositive decision. As we have stated,

> as used in Rule 2-311(f) a "dispositive" decision is one that conclusively settles a matter. If the possibility that the court might reconsider or revise its decision would prevent that decision from being dispositive of a claim or defense, then even final, i.e. appealable, judgments could be said not to be dispositive, because even they may be subject to revision.

Lowman v. Consol. Rail Corp., 68 Md. App. 64, 77 (1986) (citing Rule 2-535). The denial of Peters-Humes's motion to amend or alter was, therefore, not a dispositive decision. Rather, the dispositive decision was the circuit court's grant of LFCU's renewed motion to dismiss. Accordingly, we conclude that the circuit court did not abuse its discretion by denying Peters-Humes's motion to alter or amend without holding a hearing.[8]

III. The challenged judicial actions of the circuit court were not inconsistent.

Finally, we address Peters-Humes's argument that the circuit court violated her right to due process by handling the case in a way that caused confusion. Specifically, Peters-Humes asserts that "contemporaneous and disjointed judicial actions deprived [her] of her expectation of consistent procedural treatment and a meaningful opportunity to prosecute her claims." Peters-Humes reasons that the circuit court's "failure to consolidate or

[8] We are unpersuaded by Peters-Humes's attempt to characterize her motion to alter or amend as one to amend the pleadings. Peters-Humes contends that under Maryland law, motions to amend pleadings should be liberally granted. Peters-Humes's motion to alter or amend, however, makes no request to amend her pleadings. Rather, it was merely a motion to alter or amend the circuit court's order granting LFCU's motion to dismiss.

coordinate" the proceedings related to a variety of procedural motions filed by LFCU resulted in "a lack of clarity and fairness in the case administration." Peters-Humes cites no legal authority to support her argument. LFCU counters that Peters-Humes's challenge to the complexity of the case is self-serving. LFCU reasons that Peters-Humes's own actions, such as filing her own procedural motions and amending her counterclaims multiple times, contributed to the complexity of the case. Because we see no procedural inconsistencies among the judicial actions which Peters-Humes challenges, we do not reach the question of whether there was a due process violation.

Peters-Humes challenges four actions of the circuit court which she characterizes as inconsistent. First, on July 15, 2024, Judge Brubaker denied LFCU's motion to dismiss. In so ruling, Judge Brubaker specifically stated that, once Peters-Humes filed her Amended Counterclaims, LFCU was entitled to renew its motion to dismiss. Next, during a hearing on August 5, 2024, Judge Brubaker granted Peters-Humes's motion to compel discovery and ordered LFCU to produce certain documents. Thereafter, on August 12, 2024, an administrative judge entered a new scheduling order after granting the parties' joint motion to postpone trial. Finally, at a hearing on September 4, 2024, Judge Rolle granted LFCU's renewed motion to dismiss.

We discern no procedural inconsistency between the denial of LFCU's motion to dismiss and the subsequent grant of its renewed motion. Contrary to Peters-Humes's contention that there were no intervening changes in the pleadings or case posture, there was an intervening change. Indeed, as discussed *supra*, Peters-Humes's Amended Counterclaims injected new facts and allegations and were, therefore, properly dismissed

by the circuit court. Accordingly, we conclude that the challenged actions of the circuit court did not create procedural inconsistency and, therefore, we do not reach the alleged due process violation.[9]

CONCLUSION

For the foregoing reasons, we conclude that the circuit court did not err in granting LFCU's renewed motion to dismiss. We also conclude that the circuit court did not abuse its discretion by denying Peters-Humes's motion to amend or alter without granting a hearing. Finally, we conclude that the challenged actions of the circuit court did not create procedural inconsistency and, therefore, do not address whether there was a due process violation. We, therefore, affirm the judgments of the circuit court.

JUDGMENTS OF THE CIRCUIT COURT FOR FREDERICK COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

[9] Peters-Humes also challenges the "barrage of procedural motions" that LFCU filed which she contends resulted in multiple judges issuing conflicting and overlapping orders. Peters-Humes, however, does not cite the specific orders to which she is referring and fails to provide a theory as to how these orders were inconsistent. As we have stated, "[w]e cannot be expected to delve through the record to unearth factual support favorable to [an] appellant and then seek out law to sustain [their] position." *Francis v. Francis*, 263 Md. App. 307, 321 (2024) (quoting *von Lusch v. State*, 31 Md. App. 271, 282 (1976)). Accordingly, we do not address whether rulings on LFCU's "barrage of procedural motions" undermined due process.