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UNPUBLISHED OPINION. CHECK COURT RULES BEFORE CITING.

Michigan Circuit Court,
Wayne County.
BSA COMPANY, et al.
v.
Robert BROWN, et al.
No. 03-305955 CK.

Feb. 6, 2004.

Mantese and Associates, P.C., [Gerard V. Mantese](#), Mark C. Rossman, Robert Kaatz, Troy, for plaintiffs.

[Jaffe, Raitt, Heuer & Weiss, P.C.](#), [Melanie Lafave](#), [Brian G. Shannon](#), Detroit, [Dennis W. Cleary](#), Farmington Hills, for defendants.

ORDER

[DAPHNE MEANS CURTIS](#), Circuit Court Judge.

*1 This cause having come on for (1) Plaintiffs' Motion for Reconsideration and (2) Defendant Brown's Motion for Reconsideration before the Court and the Court being fully advised in the premises.

It is ordered that Plaintiff's Motion for Reconsideration is Granted; Defendant's Motion is Denied. The default judgment as to Brown is reinstated.

By order dated September 19, 2003, the Court set aside the default judgment as to Brown and ordered Brown to file an answer to the complaint. Both parties moved for reconsideration; Plaintiffs seeking reinstatement of the default judgment on the basis that Brown had actual notice of this lawsuit, Defendant Brown contending that the Court should have dismissed the action as to him, in addition to setting aside the default.

Plaintiffs contend that inasmuch as Defendant Brown had actual notice of the action, the default judgment was properly entered. [MCR 2.105\(J\)\(3\)](#), cited in support of Plaintiff's motion, provides: "An action shall not be dismissed for improper service of process unless the service

failed to inform the defendant of the action within the time provided in these rules for service."

Defendant Brown had actual notice of the lawsuit. He knew, in early April, 2003 that the lawsuit had been filed because, according to the affidavit of John Hollis, counsel for Tri-Continental, Hollis received the complaint and contacted Brown to "determine if he had been served with the complaint and summons." For service of process purposes, Brown need not be apprised of the nature and substance of the allegations against him. Neither the court rule, [MCR 2.105\(J\)\(3\)](#) nor case authority support Brown's contention that he must have had notice of the nature and substance of Plaintiff's complaint. [Barclay v. Crown Building and Development](#), 241 Mich.App. 639, 617 N.W.2d 373 (2000); [Bunner v. Blow-Rite Insulation Co.](#), 162 Mich.App. 669, 413 N.W.2d 474 (1987). It suffices if Defendant had notice "of the action." [MCR 2.105\(J\)\(3\)](#).

2004 WL 303177 (Mich.Cir.Ct.)

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