# Court of Appeals, State of Michigan

## ORDER

STAN SHELBY V KRISTAL PATTERSON

Docket No. 378563

LC No. 24-005321-CZ

Sima G. Patel
Presiding Judge

Michelle M. Rick

Adrienne N. Young
Judges

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The motion to waive fees is GRANTED for this case only.

Pursuant to MCR 7.205(E)(2), the trial court's November 13, 2025 order is REVERSED, and the matter REMANDED for entry of an order granting summary disposition as to Count I of the complaint. Count I of the complaint pleads a claim of fraud and asserts that proofs of service completed with respect to a prior appeal filed in the circuit court misrepresented that service was, in fact, completed. Defendant sought summary disposition, arguing that plaintiff could not present evidence establishing that any misrepresentations were made with respect to service. The only evidence plaintiff presented to challenge the proofs of service amount to a denial that defendant received the pleadings in the mail. As the proofs of service are valid on their face, this is not sufficient to create a question of fact. See *Garey v Morley Bros*, 234 Mich 675, 676-678; 209 NW 116 (1926) (a proof of service, regular on its face, creates a rebuttable presumption of service; the presumption must be rebutted by unequivocal, clear, and convincing evidence of nonservice); *James v James*, 57 Mich App 452, 454; 225 NW2d 804 (1975) (the party attacking a proof of service has the burden to prove nonservice, and "mere denial of such service by that party is insufficient"). As to Count I of the complaint, the trial court erred by denying the motion for summary disposition because plaintiff did not present evidence creating a question of fact concerning whether defendant made any misrepresentations concerning service. *Lowrey v LMPS & LMPJ, Inc*, 500 Mich 1, 7; 890 NW2d 344 (2016).

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

April 3, 2026
Date

Chief Clerk