STATE OF MICHIGAN

COURT OF CLAIMS

BRYAN BROWN # 723909,

Plaintiff,

v

Case No. 25-000189-MP

MRS. FREDS, OFFICER BINKLEY, JOHN OR JANE DOE, S. HEYDENS, SGT. BURROWS, J. REHRIG, LCF MENTAL HEALTH SERVICES OR LCF MENTAL HEALTH DIRECTOR, and COLDWATER CORRECTIONAL OR WARDEN COLDWATER,

Hon. Christopher P. Yates

Defendants.
_____ /

ORDER DENYING MOTION TO SET ASIDE DISMISSAL OR FOR RENEWED SUMMONS AND AN ORDER FOR ALTERNATIVE SERVICE

Plaintiff filed this action on December 5, 2025. The summons expired on March 6, 2026. No proof of service or acknowledgment or service was filed on behalf of any defendant and no counsel filed an appearance. On March 25, 2026, the Court entered notice of dismissal for nonservice and the case was closed. On April 21, 2026, plaintiff timely moved to set aside the dismissal under MCR 2.102(F) or alternatively for issuance of a second summons under MCR 2.102(D) and an order for alternate service.[1] The Court DENIES plaintiff's motion.

[1] The Court's clerk docketed plaintiff's motion as two separate motions: a motion to set aside the dismissal and a motion for alternate service and issuance of a second summons.

A summons expires 91 days after the date the summons is issued. MCR 2.102(D). Within those 91 days, on a showing of due diligence by the plaintiff in attempting to serve the original summons, the judge to whom the action is assigned may order a second summons to issue for a definite period not exceeding 1 year from the date the summons is issued. *Id*. Plaintiff did not move this Court for issuance of a second summons within that 91 day period.

Upon the expiration of the summons as provided in subrule (D), the action is deemed dismissed without prejudice as to a defendant who has not been served with process as provided in the court rules, unless the defendant has submitted to the court's jurisdiction. MCR 2.102(E)(1). The Court entered a notice of dismissal of plaintiff's action on March 25, 2026.

MCR 2.102(F)(1) provides that a court may set aside the dismissal under subrule (E) only on stipulation of the parties or when all of the following conditions are met:

> (1) within the time provided in subrule (D), service of process was in fact made on the dismissed defendant, or the defendant submitted to the court's jurisdiction;
>
> (2) proof of service of process was filed or the failure to file is excused for good cause shown;
>
> (3) the motion to set aside the dismissal was filed within 28 days after notice of the order of dismissal was given, or, if notice of dismissal was not given, the motion was promptly filed after the plaintiff learned of the dismissal.

Conditions (1) and (2) have not been met. There is no evidence that service of process was made on any dismissed defendant or that any defendant submitted to the court's jurisdiction. No proof of service of process was filed, and plaintiff does not contend that he has good cause for failure to file proof of service of process. Consequently, the Court may not set aside the dismissal under MCR 2.102(F). Plaintiff's motion is DENIED and the case remains closed.

Date: May 19, 2026

Hon. Randy J. Wallace
Judge, Court of Claims