STATE OF MICHIGAN

COURT OF CLAIMS

KENNETH A. MCCREADY,

Plaintiff,

v

Case No. 26-000154-MZ

Hon. Sima G. Patel

STATE OF MICHIGAN DEPARTMENT OF NATURAL RESOURCES, and M. SCOTT BOWEN, Director Michigan Department of Natural Resources in his official capacity,

Defendants.
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ORDER DENYING MOTION FOR DEFAULT AND GRANTING MOTION FOR SECOND SUMMONS

Plaintiff's summons expired on October 15, 2026. Plaintiff asserts that he electronically served defendants. At 9:42 p.m. on October 15, 2026, plaintiff moved for the entry of a default against defendants or, in the alternative, the issuance of a second summons.

Plaintiff is not entitled to a default. MCR 2.603(A)(1) permits the entry of a notice of default when the opposing party fails to plead or otherwise defend against an initiated action. An opposing party must serve and file an answer to a complaint within 21 days of service of the complaint, or within 28 days if service is effectuated by registered mail, publication, or posting.

MCR 2.108(A). Because plaintiff has not filed proof of service,[1] the Court cannot calculate the deadline for defendants' first responsive pleading. Using the date on which the summons expired—October 15, 2026—defendants' first responsive pleading would be due at the earliest on November 5, 2026. Plaintiff's motion for a default is premature and is DENIED.

Plaintiff states in his motion for a default that he served defendants by email. This is not a proper method of service. Plaintiff cites MCR 2.107(G) which states:

> Notwithstanding any other provision of this rule, until further order of the Court, all service of process *except for case initiation* must be performed using electronic means (e-Filing where available, email, or fax, where available) to the greatest extent possible. Email transmission does not require agreement by the other party(s) but should otherwise comply as much as possible with the provisions of subsection (C)(4). [Emphasis added.]

See also MCR 1.109(G)(6)(a)(i)-(ii) ("Service of process of *case initiating documents* shall be made in accordance with the rules and laws required for the particular case type," while other pleadings may be served electronically) (emphasis added). Plaintiff concedes that a complaint initiates an action. MCR 2.101(B). Accordingly, plaintiff was not authorized to serve the complaint on defendants electronically pursuant to MCR 2.107(G). Rather, plaintiff was required to secure defendants' permission to effectuate service electronically. MCR 2.107(C)(4)(a). Because plaintiff did not properly serve defendants, if he had filed a proof of service, the Court would be required to deem it invalid.

In the alternative, plaintiff requests the Court to issue a second summons giving him additional time to serve defendants. The Court GRANTS that motion, but plaintiff will be required

[1] Plaintiff states in his motion, "Proof of that service is of record." This is not an accurate statement. To be "of record" the proof of service must be filed with the Court. The Court has received no such proof of service.

to serve the complaint on defendants and file proof of service with this Court by noon on Friday, October 30, 2026.

IT IS ORDERED:

1. The Court DENIES plaintiff's motion for entry of a default.
2. The Court GRANTS plaintiff's motion for issuance of a second summons. The Court concurrently issues a summons expiring on October 30, 2026.
3. This is not a final order.

Date: October 16, 2026

Sima G. Patel
Judge, Court of Claims