

Court of Appeals, State of Michigan

ORDER

City of Detroit v Bimini Properties II Inc

Docket No. 348154

LC No. 17-012445-CH

Thomas C. Cameron
Presiding Judge

Kirsten Frank Kelly

Cynthia Diane Stephens
Judges

Pursuant to MCR 7.205(E)(2), the Court orders that the trial court's March 4, 2019 order is VACATED, and the matter REMANDED for further proceedings. As plaintiff now acknowledges, its method of service was improper under the court rules, as the circumstances necessary to serve a complaint under MCR 2.105(D)(4) were not present in this case. While it is true that a defect in the manner of service may be overlooked where the defendant had actual notice of the complaint, MCR 2.105(J)(3); *Bunner v Blow-Rite Insulation Co*, 162 Mich App 669, 674; 413 NW2d 474 (1987), the documentary evidence presented to the trial court does not conclusively establish that defendant had actual notice of the complaint. Accordingly, the matter is remanded for an evidentiary hearing, at which the parties may present evidence regarding whether defendant had actual notice of the complaint. At the conclusion of the hearing, the trial court shall decide whether it would be appropriate to set aside the default judgment.

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



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

AUG 13 2019

Date

Chief Clerk