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UNPUBLISHED OPINION.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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