

STATE OF MICHIGAN  
IN THE 17th CIRCUIT COURT FOR KENT COUNTY

MCM DISPOSAL, LLC; and MCM  
RENTALS, LLC,

Plaintiffs,

vs.

Case No. 16-02175-CKB

HON. CHRISTOPHER P. YATES

CLEAR CARPET LANDFILL  
ELIMINATION & RECYCLING;  
and STEVE BISHOP,

Defendants.

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OPINION AND ORDER DENYING, WITHOUT PREJUDICE,  
DEFENDANT BISHOP'S MOTION TO SET ASIDE JUDGMENT

In this routine commercial-collection case, Defendant Steve Bishop tried to go it alone, filing his own hand-written answer to the plaintiffs' three-count complaint, but losing on two of those three counts when the plaintiffs sought summary disposition under MCR 2.116(C)(10). Accordingly, the Court rendered an order on August 31, 2016, stating that "the plaintiffs are entitled to damages from Defendant Bishop in the amount of \$57,272.00." No doubt prompted by collection efforts initiated by the plaintiffs, Bishop retained counsel and, on December 20, 2016, filed a motion to set aside the judgment. In his motion and supporting brief, Bishop presented a host of arguments that might have fended off the summary-disposition request months earlier, but Bishop merely asked for relief from the judgment pursuant to MCR 2.612(C)(1). The Court concludes that Bishop's motion is premature because the plaintiffs never submitted a proposed judgment under the so-called seven-day rule, see MCR 2.602(B)(3), so the Court never entered a judgment. Therefore, the Court must now invite the plaintiffs to submit a proposed judgment, which Bishop may challenge as he sees fit.

The procedural history of this case is quite clear. The plaintiffs filed a verified complaint for damages on March 10, 2016, requesting \$57,272 on claims for breach of contract, account stated, and unjust enrichment. On April 6, 2016, Defendant Bishop filed a hand-written answer on a court form. Bishop responded to each allegation in the complaint, and he signed and printed his name in two separate places on that form. On June 29, 2016, after receiving no response to their first request for admissions, the plaintiffs filed a motion for summary disposition under MCR 2.116(C)(10). On August 31, 2016, the Court heard argument from the plaintiffs' counsel, engaged in a colloquy with counsel to test the strength of the plaintiffs' arguments, and ultimately granted summary disposition to the plaintiffs on Counts One and Two, but not Count Three, pursuant to MCR 2.116(C)(10). After resolving the issue of liability on the merits, the Court concluded that the plaintiffs had established the right to a damage award in the amount of \$57,272. Consequently, the Court entered an order on August 31, 2016, memorializing its rulings on the plaintiffs' summary-disposition motion.

For reasons the Court cannot understand, the plaintiffs never submitted a proposed judgment under the so-called seven-day rule,<sup>1</sup> see MCR 2.602(B)(3), so the Court never signed a judgment that reflected Defendant Bishop's personal liability. Nevertheless, the plaintiffs began collection efforts, which apparently prompted Bishop to file a motion on December 20, 2016, seeking relief from the judgment that did not even exist. Because the plaintiffs obtained summary disposition on the issues of liability on Counts One and Two and damages, the Court hereby invites the plaintiffs to submit a proposed judgment reflecting those rulings. The plaintiffs must present their proposed judgment within seven days of the entry of this order, and Bishop shall then have seven days to offer objections

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<sup>1</sup> During the oral argument on the motion for summary disposition on August 31, 2016, the plaintiffs' counsel assured the Court that he would submit a judgment under the seven-day rule, but the Court can find no evidence that such a proposed judgment was ever submitted.

to the proposed judgment.<sup>2</sup> See MCR 2.602(B)(3)(a). If Bishop makes objections, the Court shall rule upon those objections after allowing both sides to present oral argument. If, on the other hand, Bishop makes no objections, the Court shall enter the proposed judgment, from which Bishop may seek relief under MCR 2.612.

IT IS SO ORDERED.

Dated: January 12, 2017



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HON. CHRISTOPHER P. YATES (P41017)  
Kent County Circuit Court Judge

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<sup>2</sup> According to MCR 2.602(B)(3), the plaintiffs may submit a proposed judgment “[w]ithin 7 days after the granting of the . . . order” for summary disposition, “or later if the court allows.” In order to resolve this litigation with a judgment reflecting the Court’s rulings on the plaintiffs’ motion for summary disposition, the Court shall allow the plaintiffs seven days from today’s date to present a proposed judgment.