

IN THE CHANCERY COURT, STATE OF WYOMING

2025 WYCH 1

Troy Braithwaite,

Plaintiff,

v.

Inno Supps, Kevin Gunderson, and
James Navin,

Defendants.

Case No. CH-2024-0000028

Order of Dismissal

[¶1] The court is in receipt of plaintiff’s letter dated February 21, 2025 (FSX No. 75701330) and filed in response to the court’s Rule 4(w) notice of dismissal for failure to serve. (FSX No. 75684717). Having reviewed plaintiff’s response, the case file, and the pertinent law, the court determines that the case must be dismissed without prejudice.

BACKGROUND

[¶2] The document electronically filed in this action as “Complaint – Initial Filing” is titled “Affidavit of Unlawful Termination” and alleges employment-related misconduct, including harassment by certain Inno Supps employees, hostile work environment, and retaliatory termination in violation of “Title VII of the Civil Rights Act of 1964” and the “Nevada State Employment Statute NRS 613[.]” *Inno Supps Unlawful Termination* (FSX No. 75068515). The affidavit demands from defendants certain records and compensatory amounts and asserts that “[f]ailure to comply with these demands will result in” claimant seeking, among other things, recourse in court. *Id.*

[¶3] In addition to the affidavit, plaintiff included other documents in his initial filing, including four certified mailing return receipts for one Nevada address (two mailings sent to each individual defendant, all at the same address). *Proof of Receipt* (FSX No. 75068515). The mailings were sent to Kevin Gunderson as acting owner and James Nevin as CFO of Inno Supps. *Id.* Plaintiff also submitted a witnessed and notarized Notice of Default Certified Judgment raising these mailings and declaring that “an affidavit un-rebutted in 72 hours becomes the judgment.” *Not. Def. Cert. J.* (FSX No. 75068515).

[¶4] The final document filed with plaintiff’s initial submission was an Acceptance of Default and Dishonor of Notice. *Acceptance of Def. & Dishonor of Not.* (FSX No. 75068515). That document, also notarized and signed by plaintiff as Declarant-Affiant, states that “both Respondents owe Troy Braithwaite \$1,500,000.00” and that both “are silenced, and therefore acquiesce[] and agree[] with the claims; orders; terms and conditions” included therein. *Id.*

[¶5] Absent from plaintiff’s initial submission were either (1) a summons presented to the court clerk for signature and seal or (2) a request for registered or certified mailing to persons outside of Wyoming as contemplated by W.R.C.P.Ch.C. (4)(b) and (4)(r)(2). The court therefore noticed dismissal under W.R.C.P.Ch.C. 4(w), pointing out that plaintiff had neither served defendants nor filed proof of service as required under Rule 4. *Ord. Case Subject to Dism.* (FSX. No. 75684717).

[¶6] Plaintiff’s response to that notice relayed his diligence in filing this “postal lawsuit” against Inno Supps. *Resp. to Ord.* (FSX No. 75701330). The response did not seek additional time for proper service on defendants or attempt to show good cause for the delay; it instead requested summary judgment because “all proper procedures were meticulously followed” and “no rebuttals were presented to challenge the claims made” in plaintiff’s mailings. *Id.*

DISCUSSION

[¶7] Rule 4(w) is a docket-management tool that requires dismissal if a defendant has not been served 90 days after a complaint is filed with the court. *Oldroyd v. Kanjo*, 2019 WY 1, ¶ 10, 432 P.3d 879, 883 (Wyo. 2019).¹

[¶8] Defendants have not been properly served in this case. Plaintiff has provided no proof of service on the entity defendant under Rule 4(h). And the mailings sent to the individual defendants fail to satisfy several subparts of Rule 4, a rule the court must apply strictly. *MN v. CS*, 908 P.2d 414, 415–16 (Wyo. 1995).

[¶9] To name a few of the deficiencies, the mailings: (1) did not include any summons, much less one signed by the court clerk and bearing the court’s seal as required by

¹ *Oldroyd* discussed “two avenues by which a plaintiff may expand the time for service: a mandatory extension based on ‘good cause,’ and a discretionary extension based on factors unique to each case.” ¶ 10, 432 P.3d at 883. But under W.R.C.P.Ch.C. 7(b)(1) (“Motions and Other Papers”), parties must “state with particularity the grounds for seeking” a court order along with “the relief sought.” Filings that do not make a prima facie showing that movant is entitled to relief are properly denied. *Pellet v. Pellet*, 2022 WY 65, ¶ 22, 510 P.3d 388, 396 (Wyo. 2022). Here, unlike in *Oldroyd*, plaintiff has not (1) requested additional time to serve defendant, (2) attempted to show good cause for the delay, or (3) raised any evidence of (or even mentioned) the factors supporting a discretionary extension.

Rule 4(a)(7)&(8) (*see also Hoke v. Motel 6 Jackson*, 2006 WY 38, ¶ 23, 131 P.3d 369, 381 (Wyo. 2006) (signature and seal are not “trivial” requirements because they “guarantee that the summons is legitimate”); **(2)** were not mailed by the court clerk as required by Rule 4(r)(2); **(3)** were not certified by the court clerk showing the dates of mailing and receipt return as required by Rule 4(s)(2)(C); and **(4)** were not supported by any facts allowing service by mail as contemplated by Rule 4(r).²

[¶10] Plaintiff’s response neither explains the failure to meet these requirements nor requests additional time to serve defendants. Instead, plaintiff seeks summary judgment based on defendants’ failure to appear.

[¶11] This order is issued over 110 days following plaintiff’s initial filing. Without proper service on any of the defendants within that timeframe, the case is due to be dismissed in accordance with W.R.C.P.Ch.C. 4(w).

CONCLUSION

[¶12] The court denies plaintiff’s request for summary judgment. The case is **DISMISSED** without prejudice.

Date: March 14, 2025

/s/ Benjamin M. Burningham
Chancery Court Judge

² Wyoming statute allows for service by mail under W.R.C.P.Ch.C. 4(r) “[w]hen the exercise of personal jurisdiction is authorized” by the Wyoming or United States constitutions. Wyo. Stat. § 5-1-107. But here, plaintiff has not made even a prima facie showing of how the court has personal jurisdiction over defendants. The allegations raised disclose no contacts that defendants have established with Wyoming, and in fact, none of plaintiff’s filings mention Wyoming at all.