

2024 JUN 20 PM 3: 37

CLERK OF COURT

IN THE SUPERIOR COURT OF GUAM

BRIAN A. MENDIOLA,

Plaintiff,

vs.

NICHOLAS WAYNE MOORE, LEROY
MOORE, AND DOES INSURANCE
COMPANIES 1 through 5,

Defendants.

CIVIL CASE NO. CV0526-22

BY: SM

**DECISION AND ORDER
DISMISSING MATTER WITHOUT
PREJUDICE**

INTRODUCTION

This matter came before the Honorable John C. Terlaje on June 7, 2023 pursuant to a Notice of Judge Assignment. Notice of Judge Assignment (June 7, 2023). Attorney Charles H. McDonald II represents Plaintiff Brian A. Mendiola ("Plaintiff"). It is unknown who represents Defendants Nicholas Wayne Moore, Leroy Moore, and the unidentified insurance companies ("Defendants").

BACKGROUND

On October 14, 2022, Plaintiff filed a Complaint and Demand for Jury Trial. Compl. And Demand for Jury Trial (October 14, 2022). On April 18, 2023, the court issued a Notice of Prospective Dismissal. Notice of Prospective Dismissal (April 18, 2023). The Notice alerted the Plaintiff of its failure to effectuate service within the 180-day time of service required by Rule 4 of the Guam Rules of Civil Procedure. *Id.* The Notice also states that unless good cause has been shown in writing, filed with this Court no later than June 1, 2023, this cause will be dismissed on said date pursuant to Guam Rules of Civil Procedure Rule 41(b), Rule 78,

Promulgation Order 06-001, 7 GCA §7107, and the Court's inherent authority to control its docket by entry of an order. *Id.* On June 7, 2023, a Notice of Judge Assignment was issued, assigning the Honorable John C. Terlaje to this matter. Notice of Judge Assignment (June 7, 2023).

DISCUSSION

Rule 4(m) of the Guam Rules of Civil Procedure states that if a service of the summons and complaint is not made upon a defendant within 180 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice. GRCP Rule 4(m). The rule states that if the plaintiff shows good cause for the failure to serve within the given time period, the court shall extend the time for service for an appropriate period. *Id.* The Plaintiff has not effectuated service within the 180-day time period. The Plaintiff also did not file any writings showing good cause for failure to serve. Therefore, this Court must now dismiss the action without prejudice.

CONCLUSION AND ORDER

For the foregoing reasons, the Court hereby dismisses the case without prejudice.

SO ORDERED, this 20 day of June 2024.



HON. JOHN C. TERLAJE
Judge, Superior Court of Guam