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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1882-15T4

JACQUELINE E. NGUYEN,

Plaintiff-Appellant,

v.

SPEVACK LAW FIRM and RONALD
W. SPEVACK & ASSOCIATES,

Defendants-Respondents.

Submitted April 25, 2017 – Decided May 4, 2017

Before Judges Leone and Vernoia.

On appeal from the Superior Court of New
Jersey, Law Division, Middlesex County, Docket
No. L-0005-14.

Jacqueline Nguyen, appellant pro se.

Spevack Law Offices, attorneys for respondents
(Howard H. Sims, on the brief).

PER CURIAM

Plaintiff appeals an October 23, 2015 order granting defendants' motion for summary judgment and dismissing the complaint based on statute of limitations grounds.¹ We affirm.

We review an order granting summary judgment de novo and apply the same standard governing the trial court, which requires summary judgment be denied if "the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party." Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 540 (1995); Townsend v. Pierre, 221 N.J. 36, 59 (2015); R. 4:46-2(c). The facts, drawn from the competent evidential materials, and seen in the light most favorable to plaintiff, can be summarized as follows.

In 2001, a complaint alleging employment discrimination against plaintiff's former employer was filed on plaintiff's behalf in Somerset County. In 2002, plaintiff retained the law firm of Spevack & Cannan, P.A. as her new counsel and paid it a \$3000 retainer fee. In August 2002, the law firm was substituted as plaintiff's counsel in the Somerset County litigation.

¹ The court also entered an October 23, 2015 order denying plaintiff's motion for summary judgment. Plaintiff does not appeal the order denying her summary judgment motion.

In April 2003, Spevack & Cannan, P.A. filed a motion to be relieved as plaintiff's counsel. The motion was granted in a May 9, 2003 order. Plaintiff was thereafter represented in the Somerset County matter by new counsel, but on February 6, 2004, her complaint was dismissed with prejudice due to her failure to respond to discovery demands.

In March 2010, plaintiff filed a complaint against "Spevack & Cannan, L.L.P." in the Small Claims Division of the Special Civil Part in Middlesex County. Plaintiff sought \$3000 in damages and asserted breach of contract and what appeared to be professional malpractice claims against the defendant based on its handling of the Somerset County lawsuit.²

The defendant filed a motion to dismiss the complaint, arguing plaintiff's claims were barred by the six-year statute of limitations, N.J.S.A. 2A:14-1, because its last interaction with plaintiff occurred seven years earlier on May 9, 2003, with the entry of the court's order relieving it as plaintiff's counsel. On May 3, 2010, the court granted the motion and entered an order dismissing plaintiff's complaint with prejudice.

² Plaintiff filed her April 2003 complaint as a self-represented litigant. The complaint expressly alleges breach of contract and we broadly read the balance of her handwritten allegations as asserting a legal malpractice claim.

On May 11, 2010, plaintiff filed a complaint against "Spevack & Cannan" in the Special Civil Part in Middlesex County claiming \$3000 in damages and alleging the defendant "mishandle[d]" its representation of her claim and engaged in dishonesty. The court granted the defendant's motion to dismiss the complaint with prejudice in an order filed on July 16, 2010.³

Plaintiff subsequently sought leave to appeal out of time the orders dismissing the Middlesex County matters. We denied plaintiff's motion, and plaintiff's petition for certification to the Supreme Court was denied. Nguyen v. Spevack, 206 N.J. 64 (2011).

On July 11, 2013, plaintiff filed her third complaint in the Special Civil Part in Middlesex County. Plaintiff alleged defendants "Ronald Spevack, The Spevack Law Firm, et al., [and] David R. Spevack" "overbill[ed]" her and engaged in "intention[al] perjuries," and vaguely asserted that defendants engaged in other wrongful conduct during their representation of plaintiff in the Somerset County employment discrimination matter. Defendants filed an answer asserting defenses including statute of limitations, res judicata, and lack of jurisdiction in the Special Civil Part, and

³ The defendant listed in the caption of the order is "RONALD SPEVACK, d/b/a SPEVACK LAW OFFICES, improperly pleaded as SPEVACK & CANNAN, LLP."

a counterclaim alleging plaintiff's claims were frivolous. The matter was transferred to the Law Division where the parties exchanged written discovery and depositions were taken.

During discovery, plaintiff supplied an affidavit of merit and expert liability report supporting her claim defendants committed professional malpractice in the Somerset County matter in two ways. First, the report stated defendants abandoned their representation of plaintiff without completing the discovery responses and that their actions resulted in the dismissal with prejudice of plaintiff's complaint in the Somerset County matter. Second, the expert claimed that the reasons stated in support of the 2003 motion to be relieved as counsel in the Somerset County matter were false,⁴ and that they made it difficult for plaintiff to retain new counsel after the motion was granted.

In September 2015, defendants filed a motion for summary judgment. Defendants argued plaintiff's claims were barred by the six-year statute of limitations and under the doctrine of res judicata. Defendants also asserted that their alleged negligence in the handling of the Somerset County matter did not proximately cause the dismissal of plaintiff's complaint.

⁴ In support of its motion to be relieved as counsel in the Somerset County matter, Spevack & Cannan, P.A. claimed plaintiff's lack of cooperation and unresponsiveness as a client made it impossible to effectively represent her interests.

After hearing extensive oral argument on defendants' motion, the court determined the evidence showed plaintiff was or should have been aware of the facts supporting her claims against defendants by May 2003, because by then she had been provided with the papers containing the allegedly false statements that were filed in support of the motion to be relieved as counsel, as well as a copy of the court's order granting the motion. The undisputed facts also showed plaintiff was aware of the dismissal of her complaint with prejudice in the Somerset County matter in February 2004.

The court granted defendants' motion for summary judgment. The court reasoned that plaintiff was aware of all of the facts supporting her claims against defendants in 2003, but that she failed to file her complaint until ten years later in May 2013. The court concluded that her complaint was filed beyond the six-year statute of limitations, N.J.S.A. 2A:14-1, for the causes of action asserted in the complaint, and entered an order granting defendant's motion and dismissing the complaint.⁵ Plaintiff appealed.

⁵ It was unnecessary for the court to address defendants' argument that they were entitled to summary judgment because plaintiff's claims were barred under the doctrine of res judicata.

In her pro se brief on appeal, plaintiff argues:

POINT I

APPELLANT SHOULD BE RELIEVED IN THE BIAS AND PREJUDICE OF COURT OR RESPONDENTS TO BIAS APPELLANT SETUP REPEATING VIOLATION OF STATUTE IN THE UNDER SEALED MOTION OF ITS FIRM MAKING ITS UNDER SEALED CERTIFICATION A TARGET AND SUSPECT TO EASILY ATTACK APPELLANT IN A SUBSTANTIAL UNFORESEEABILITY OF MALPRACTICE BY MISLEADING OF FAULTS OF RESPONDENTS.

POINT II

ATTORNEY CANNOT HARM THE MERITS OF THE CASE. THE CERTIFICATION OF [DEFENDANT'S ASSOCIATE] GOES FAR BEYOND WHAT [IS] ACCEPTABLE IN THIS MOTION.

When reviewing an order granting or denying summary judgment, we apply the same standard that the trial court applies in ruling on a summary judgment motion. State v. Perini Corp., 221 N.J. 412, 425 (2015) (citing Town of Kearny v. Brandt, 214 N.J. 76, 91 (2013); Liberty Surplus Ins. Corp. v. Nowell Amoroso, P.A., 189 N.J. 436, 445-46 (2007)). Summary judgment is proper if the record demonstrates "no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment . . . as a matter of law." Burnett v. Gloucester Cty. Bd. of Chosen


6 Plaintiff appears pro se on appeal. We have carefully considered her arguments to the extent they could be discerned from her brief. We quote directly from the point headings contained in her brief with only the alterations indicated to avoid any unintended mischaracterization of her substantive arguments.

Freeholders, 409 N.J. Super. 219, 228 (App. Div. 2009). Issues of law are subject to the de novo standard of review, and the trial court's determination of such issues is accorded no deference. Kaye v. Rosefielde, 223 N.J. 218, 229 (2015) (citations omitted).

We have carefully reviewed the record and the arguments presented in plaintiff's brief, and affirm substantially for the reasons explained by the judge in his oral opinion. Plaintiff's arguments are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION