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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-2104-15T3

KATHARINE LAI,

Plaintiff-Appellant,

v.

BARBARA LANGBERT,

Defendant,

and

SHOSHANA SCHIFF, ESQ., and
TRENK, DIPASQUALE, DELLA FERA & SODONO,
P.C.,

Defendants-Respondents.

Submitted March 28, 2017 – Decided May 12, 2017

Before Judges Yannotti and Sapp-Peterson.

On appeal from the Superior Court of New
Jersey, Law Division, Middlesex County, Docket
No. L-3586-15.

Katharine Lai, appellant pro se.

McElroy, Deutsch, Mulvaney & Carpenter, LLP,
attorneys for respondents (Leigh A. DeCotiis,
on the brief).

PER CURIAM

In this appeal, pro se plaintiff Katharine Lai, appeals from the November 20, 2015 order dismissing her complaint against defendants Shoshana Schiff, Esq. and her law firm Trenk, DiPasquale, Della Fera & Sodona, P.C. (the Firm), for failure to state a claim upon which relief may be granted pursuant to Rule 4:6-2(e), and the December 18, 2015 order denying her motion for reconsideration. We affirm both orders.

Plaintiff is the principal of Fantastic Realty Company (Fantastic), which owns property in Highland Park (the Property). Fantastic leased the property to Dr. Carl Langbert, D.M.D., P.A., who operated his dental practice on the premises. According to plaintiff's complaint, Langbert stopped paying rent in January 2011.

Langbert subsequently retained Schiff, a partner in the Firm to represent him in connection with a Chapter 7 bankruptcy proceeding. Plaintiff alleged that she contacted Schiff and requested that her name be removed from Langbert's creditor list filed in the bankruptcy proceeding and that Schiff refused to do so. Plaintiff contends Schiff's refusal to remove her name was based upon her status as a "Multiple Disabled, Old, Chines[e] Woman."

In lieu of a responsive pleading, defendants filed a motion seeking dismissal of the complaint for failure to state a claim upon which relief may be granted. The court granted the motion, stating in its order that "a liberal review of Plaintiff's eight count complaint fails to allege a factual basis upon which relief can be granted. The complaint merely contains conclusory language asserting the type of relief requested." Thereafter, plaintiff sought reconsideration. The court denied the motion and the present appeal followed.

On appeal, plaintiff states that the procedural history she presented to the court demonstrates that defendants intentionally refused to remove her from the creditor's list because she is an elderly woman of Chinese ancestry, with multiple disabilities. She also alleges that she reported the motion judge to the Advisory Committee on Judicial Conduct, which proved that the motion judge "signed all the wrongful orders to depraved (sic) [her] Civil & Legal Rights." Finally plaintiff contends she offered to settle the matter with defendants in order to "avoid this case to be published on the Internet" and that if a settlement were reached the case would be removed from "our website."

A motion to dismiss under Rule 4:6-2(e) should be "approach[ed] with great caution" and should only be granted in "the rarest of instances." Printing Mart-Morristown v. Sharp

Electronics Corp., 116 N.J. 739, 771-72 (1989). The trial court is obliged to view the allegations in the complaint with liberality and without concern for the plaintiff's ability to prove the facts alleged in the complaint. Id. at 746. Rather, the court's inquiry focuses upon "the legal sufficiency of the facts alleged in the complaint." Donato v. Moldow, 374 N.J. Super. 475, 482 (App. Div. 2005) (citing Printing Mart, supra, 116 N.J. at 746). On appeal, our standard of review is de novo. Ibid.

We too must examine "'the legal sufficiency of the alleged facts apparent on the face of the challenged complaint.'" Rieder v. Dep't of Transp., 221 N.J. Super. 547, 552 (App. Div. 1987) (quoting P. & J. Autobody v. Miller, 72 N.J. Super. 207, 211 (App. Div. 1962)). In doing so, we must search "the complaint in depth and with liberality to ascertain whether the fundament of a cause of action may be gleaned even from an obscure statement of claim, opportunity being given to amend if necessary." Leon v. Rite Aid Corp., 340 N.J. Super. 462, 466 (App. Div. 2001) (quoting Printing Mart, supra, 116 N.J. at 739) (internal citations omitted)).

Guided by this standard of review, we first observe that none of the points plaintiff raises addresses the purported errors in the judge's stated reasons for dismissing her complaint, namely, the absence of a factual basis set forth in the complaint to support the various causes of action asserted. Our in-depth and

liberal evaluation of the pleadings reveals two factual allegations: (1) defendant Schiff refused to give plaintiff the debtor's "asset listing"; and, (2) Schiff only saw her as a multiple-disabled and old Chinese woman, which is why Schiff repeatedly refused to remove plaintiff's name from the bankruptcy list as a creditor. No other facts are alleged in the complaint.

The fact that plaintiff is disabled, elderly, and Chinese, without more, does not assert a claim of discrimination under either the state or federal Constitutions. At the very least plaintiff was required to assert some facts from which it may be gleaned that if proved, a cause of action for discrimination could be established.

Plaintiff set forth no facts that, if believed, pled the elements of discrimination, pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1981. Because plaintiff failed to set forth sufficient facts to support her causes of action of action under New Jersey's Law Against Discrimination could be sustained. See N.J.S.A. 10:5-1 to -49. Failing to set forth sufficient facts to support her causes of action, the court properly dismissed her complaint. Scheidt v. DRS Technologies, Inc., 424 N.J. Super. 188, 193 (App. Div. 2012).

Plaintiff additionally advanced a negligence claim against defendants. However, the Firm did not represent plaintiff.

Therefore, the Firm had no duty to plaintiff, upon which a claim of negligence could be based.

Finally, turning to plaintiff's appeal of the court's denial of her motion for reconsideration. Once again, plaintiff has failed to set forth any facts from which it may be concluded that the court, in dismissing plaintiff's complaint, overlooked controlling decisions or misapplied the law to its analysis. See R. 4:49-2; see also Cummings v. Bahr, 295 N.J. Super. 374-85 (App. Div. 1996).

Affirmed.

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



CLERK OF THE APPELLATE DIVISION