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APPROVAL OF THE APPELLATE DIVISION**

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-4966-15T2

L.C.,

Plaintiff-Respondent,

v.

D.C.,

Defendant-Appellant.

Submitted October 17, 2017 – Decided November 6, 2017

Before Judges Hoffman and Gilson.

On appeal from Superior Court of New Jersey,
Chancery Division, Family Part, Morris County,
Docket No. FM-14-0109-05.

Legal Services of Northwest Jersey, attorneys
for appellant (Constance Kresge Stickle, on
the briefs).

McGlone McGlone & Belardinelli, attorneys for
respondent (Marianne J. McGlone, on the
brief).

PER CURIAM

Defendant D.C. appeals from the June 7, 2016 Family Part order¹ denying reconsideration of the court's February 10, 2016 order, which denied without prejudice defendant's motion to reduce his alimony and child support payments. We affirm.

The parties married in 1986 and divorced in 2005. They have two daughters, one born in 1994 and one born in 1998. At the time of their divorce, the parties entered into a property settlement agreement (PSA), which the court incorporated into their final judgment of divorce. When the parties entered into the PSA, defendant owned and operated his own business. In the PSA, defendant agreed to pay plaintiff permanent alimony "in the amount of \$187,500 per annum payable in [twenty-four] equal monthly installments of \$7,812.50" Defendant also agreed to pay plaintiff \$2083 twice a month for child support.

¹ While defendant's notice of appeal lists both orders, only the June 7, 2016 order denying reconsideration properly appears before us. Defendant filed his notice of appeal on July 19, 2016 seeking to appeal the February 10, 2016 and June 7, 2016 orders. Nineteen days expired between the issuance of the February 10, 2016 order and defendant's motion for reconsideration. The time for appeal tolled while the reconsideration motion remained pending. The trial court denied the reconsideration motion on June 7, 2016, but defendant did not file his notice of appeal until July 19, 2016 – forty-one days later. Thus, defendant timely filed an appeal only from the June 7, 2016 order denying reconsideration. See R. 2:4-1; see also R. 2:4-3. Accordingly, we limit our review to the June 7, 2016 order.

Following the parties' divorce, defendant filed numerous motions to suspend or reduce his alimony and child support payments, alleging changed circumstances based on a drastic decline in his income. Plaintiff opposed these motions. In a series of orders entered since 2007, the Family Part at times granted defendant temporary relief, but never found that defendant proved a substantial change of circumstances to warrant any permanent reduction in his support obligations.

On December 7, 2007, the Family Part entered an order directing defendant to resume paying his support obligations in accordance with the PSA, citing his failure to demonstrate a change of circumstances. Defendant appealed that order and we affirmed. L.C. v. D.C., No. A-2480-07 (App. Div. Jan. 5, 2009).

On June 18, 2010, the Family Part denied defendant's motion to reduce his support obligations without prejudice. Thereafter, the parties entered into a consent order on November 16, 2011, providing defendant some temporary relief and directing the parties to engage in mediation. The mediation proved unsuccessful.

This appeal arises from a motion defendant filed in January 2016, again seeking to reduce his child support and alimony obligations. On February 5, 2016, the Family Part entered an order denying that application without prejudice. The court entered an amended order on February 10, 2016.

On February 29, 2016, defendant filed a motion for reconsideration. Following oral argument, the court entered an order denying that motion without prejudice on June 7, 2016. Defendant then filed a timely appeal of the Family Part's June 7, 2016 order denying reconsideration.

On this appeal, defendant makes five arguments, contending: (1) he made a prima facie showing of changed circumstances in 2010 and 2011; (2) he suffers from mental illnesses warranting a stay of enforcement; (3) the Family Part erred in requiring him to make an equitable distribution payment that had been "abandoned"; (4) the trial court erred in awarding counsel fees; and (5) the trial court failed to appreciate plaintiff's co-habitation with her alleged fiancé.

Ignoring defendant's failure to present any meritorious arguments regarding the reconsideration order under review, plaintiff counters that defendant last paid support over ten years ago, his alimony and child support arrears exceed \$1.2 million, and he owes her over \$600,000 in equitable distribution. She contends that defendant's change in circumstances arguments are fabricated. She alleges defendant hid his assets in his father's company, which offers services identical to that of defendant's now bankrupt business. Further, she argues defendant, whose mental illness predated the marriage, exaggerates his symptoms and lies

about his inability to work. Finally, she disputes defendant's cohabitation allegations.

Reconsideration is a matter within the sound discretion of the trial court, and we review for abuse of discretion. See Palombi v. Palombi, 414 N.J. Super. 274, 288-89 (App. Div. 2010). "Motions for reconsideration are granted only under very narrow circumstances" Fusco v. Bd. of Educ. of Newark, 349 N.J. Super. 455, 462 (App. Div.), certif. denied, 174 N.J. 544 (2002). As such, reconsideration should be used only for those cases where "either (1) the Court has expressed its decision based upon a palpably incorrect or irrational basis, or (2) it is obvious that the Court either did not consider, or failed to appreciate the significance of probative, competent evidence." Ibid. (quoting D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990)); see R. 4:49-2.

Defendant's arguments on appeal mirror those presented to the motion judge in his original motion and reconsideration motion. From our review, the record lacks any evidence the judge based his decision upon a palpably incorrect or irrational basis or failed to consider probative, competent evidence. Accordingly, we

conclude defendant failed to demonstrate the motion judge abused his discretion in denying the motion for reconsideration.²

Affirmed.

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



CLERK OF THE APPELLATE DIVISION

² We note, however, this affirmance does not preclude defendant from filing a future motion in the Family Part demonstrating a change of circumstances. In both the February 5, 2016 motion, and the motion under review, the judge denied defendant's motions "without prejudice."