SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1411-15T1

FRANCIENNA B. GRANT,

Plaintiff-Appellant,

v.

MARSHALL L. WILLIAMS,

Defendant-Respondent.

Submitted April 17, 2018 – Decided April 25, 2018

Before Judges Fasciale and Sumners.

On appeal from Superior Court of New Jersey, Law Division, Camden County, Docket No. L-0705-13.

Francienna B. Grant, appellant pro se.

Respondent has not filed a brief.

PER CURIAM

This is a legal malpractice case. Plaintiff appeals from two orders: a May 20, 2014 order denying her motion to stay an earlier order vacating default against defendant; and an October 9, 2015 order entering a judgment of no cause of action on damages after the judge conducted a bench trial.

On appeal, plaintiff argues:

> POINT I
> DEFENDANT FORF[E]ITED THE RIGHT TO PLEAD AGAINST THE COMPLAINT BY FAILING TO PLEAD AND AS A RESULT ABANDONED HIS RIGHTS AND DEFAULTED.
>
> POINT II
> DEFENDANT HAD UNILATERAL COMMUNICATION WITH THE COURT AND FAILED TO ADHERE TO COURT RULES OF NOTIFICATION RESULTING IN AN UNDUE ADVANTAGE.
>
> POINT III
> THE DOCTRINE OF LACHES PROHIBITS THE VACATING OF THE ENTRY OF DEFAULT AND SUPPORTS REINSTATING THE ENTRY OF DEFAULT.
>
> POINT IV
> FOLLOWING THE REVERSAL OF DEFAULT IN FAVOR OF [DEFENDANT], [DEFENDANT] CONTINUED TO COMMIT RULE 4:50-1(c) FRAUD, MISREPRESENTATIONS VIOLATIONS AND RULE 2:9 EX PARTE COMMUNICATION VIOLATIO[N]S AND GAINED AN ADVANTAGE[].
>
> [A.] DEFENDANT'S VIOLATION OF RULE 4:50-1 PRECLUDES HIM FROM GAINING A SECOND BITE OF THE APPLE.
>
> [B.] IF NOT FOR THE [DEFENDANT'S] RETALIATORY HIGH VOLUME OF FRIVOLOUS MOTIONS, HE COULD HAVE FULFILLED HIS DISCOVERY OBLIGATIONS TO [PLAINTIFF].
>
> > [i.] IN COMPLIANCE WITH RULE . . . 6:4-5, 4:17-2 [DEFENDANT] HAD AN OBLIGATION TO IN GOOD FAITH FULFILL HIS DISCOVERY OBLIGATIONS TO APPELLANT.
>
> POINT V
> TRIAL COURT COMMITTED HARMFUL ERROR TO PLAINTIFF WHEN [IT] REFUSED TO ACT ON PLAINTIFF[']S MOTION TO COMPEL[] DISCOVERY CITING DEFENDANT[']S FAILURE TO COMPLY WITH

DISCOVERY AND PRODUCE DOCUMENTS AND AVAIL HIMSELF FOR DEPOSITION.

[A.] THE TRIAL COURT ABUSED ITS DISCRETION BY FAILING TO RULE ON PLAINTIFF['S] MOTION WHICH CITED THE DEFENDANT'S CONTEMPT OF COURT FOR MORE THAN [TWO] MONTHS ONLY TO THEN FAST TRACK PLAINTIFF TO TRIAL WITHOUT DISCOVERY WHICH WAS VITAL TO [PLAINTIFF'S] CASE.

> [i.] CASE LAW SUPPORTS THAT THE DEFENDANT [WAS] IN CONTEMPT OF COURT AND IF NOT FOR THE HARMFUL ERROR OF THE COURT THE ONLY REASONABLE OUTCOME WOULD HAVE BEEN HAD.
>
> [ii.] BUT FOR THE [DEFENDANT'S] ESCALATING DILATORY AND CONTUMACIOUS ACTS THE [PLAINTIFF] WOULD NOT HAVE BEEN SEVERELY PREJUDICED.

POINT VI

THE COURT PREJUDICIALLY ERRED WHEN [IT] CONTINUED TO PERMIT [DEFENDANT] WHO IS AN ATTORNEY TO HAVE EX PARTE COMMUNICATION WITH THE COURT THROUGH FACSIMILE AND FILINGS WHICH VIOLATED COURT RULES AND PREJUDICED [PLAINTIFF].

[A.] THE COURT PREJUDICIALLY ERRED WHEN IT DENIED [PLAINTIFF'S] RIGHT TO DUE PROCESS.

> [i.] THE COURT DENIED [PLAINTIFF] THE RIGHT TO AND EXTENSION OF TIME TO COMPLETE DISCOVERY AFTER THE COURT PREJUDICED [PLAINTIFF] WITH ITS EX PARTE RULING OVERTURNING DEFAULT JUDGMENT AGAINST [DEFENDANT] AND PERMITTING HIM TO PLEAD ON THE COMPLAINT AFTER [TEN] MONTHS HAD [PASSED] ONLY TO NOT PERMIT [DEFENDANT] AN EXTENSION OF TIME TO COMPLETE DISCOVERY.
>
> [ii.] THE COURT DENIED [PLAINTIFF] THE RIGHT TO EQUAL TREATMENT IN RELATION TO THE REQUIREMENTS NEEDED TO HAVE DEFAULT

ENTERED, RULED UPON AND OR SET ASIDE IN RELATION [TO] RESPONSE TIME FOR RULING MOTIONS AND REQUESTS OF THE COURT.

POINT VII

TRIAL COURT COMMITTED HARMFUL ERROR TO PLAINTIFF WHEN [IT] VIOLATED PRO SE PLAINTIFF['S] CONSTITUTIONAL RIGHTS UNDER THE . . . FIFTH AMENDMENT, FOURTEENTH AMENDMENT AND BILL OF RIGHTS AFTER HARMFUL[] ERROR. . . OCCURRED WHEN SHE WAS DENIED THE RIGHT TO PRESENT HER P[R]IMA [FACIE] CASE AT TRIAL.

[A.] THE JUDGE ERRED IN DENYING AN EVIDENTIARY HEARING AS THERE WAS PRIMA FACIE EVIDENCE OF INEFFECTIVE ASSISTANCE OF COUNSEL RULED UPON AS SUPPORTED IN HIS JULY 21, 2015 RULING.

We conclude that these contentions are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). We affirm the judgment of no cause of action for the reasons expressed by the judge, and add the following brief remarks as to the bench trial.

Our scope of review of the judge's findings in this nonjury case is extremely limited. We must defer to the judge's factual determinations, so long as they are supported by substantial credible evidence in the record. Rova Farms Resort, Inc. v. Inv'rs Ins. Co. of Am., 65 N.J. 474, 484 (1974). This court's "[a]ppellate review does not consist of weighing evidence anew and making independent factual findings; rather, our function is to determine whether there is adequate evidence to support the judgment rendered at trial." Cannuscio v. Claridge Hotel & Casino,

319 N.J. Super. 342, 347 (App. Div. 1999) (citing State v. Johnson, 42 N.J. 146, 161 (1964)). We only review de novo the court's legal conclusions. Manalapan Realty, LP v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995). Applying these standards of review, and especially deferring to the judge's credibility assessment of plaintiff, we uphold his decisions.

As plaintiff alleged here that defendant committed legal malpractice, she must prove the case within the case. In that regard, the judge found defendant's representation of plaintiff in the underlying action fell below the accepted standards of care in the legal profession. But on the remaining questions in the underlying case as to damages, the judge found plaintiff failed to prove she would have recovered. That is, he found that the underlying case "has no value to it." And most importantly, he found that plaintiff's testimony was "not credible," "undermined," and "evasive." We decline to disturb the judge's findings, which are supported by the credible evidence in the record.

Affirmed.