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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-1448-16T1  
A-5098-16T1

CHRISTOPHER WILLIAMS,

Plaintiff-Appellant,

v.

WELLS FARGO BANK, N.A.,

Defendant-Respondent.

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WELLS FARGO BANK, N.A.,

Plaintiff-Respondent,

v.

CHRISTOPHER WILLIAMS,

Defendant-Appellant.

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Submitted January 29, 2018 – Decided April 3, 2018

Before Judges Accurso and O'Connor.

On appeal from Superior Court of New Jersey,  
Law and Chancery Divisions, Hudson County,  
Docket Nos. L-2004-16 and F-016947-12.

Christopher Williams, appellant pro se.

Reed Smith, LLP, attorneys for respondent  
(Henry F. Reichner, of counsel; Siobhan A.  
Nolan, on the briefs).

PER CURIAM

These two appeals arising out of a residential foreclosure action, calendared back-to-back, are consolidated for purposes of this opinion only. Christopher Williams appeals from the October 14, 2016 order entered by the Law Division and the June 9, 2017 order entered by the General Equity court. After reviewing the record and applicable legal principles, we affirm.

I

In 2009, Williams borrowed \$253,762 from and executed a thirty-year note to First Choice Bank. To secure payment of the note, Williams gave a mortgage on his newly purchased residence to Mortgage Electronic Registration Systems, Inc., as nominee for First Choice Bank. In May 2011, the loan went into default when Williams failed to make a payment on the loan. He has not made a mortgage payment since. In August 2011, the mortgage was assigned to Wells Fargo Bank, N.A. (Wells Fargo).

In August 2012, Wells Fargo filed a complaint in foreclosure against Williams, as well as those who held an interest in the mortgaged premises. None of the defendants filed an answer and default was entered. On July 23, 2014,

final judgment was entered in favor of Wells Fargo foreclosing the mortgage.

In January 2015, Williams filed a complaint against Wells Fargo in the Law Division, alleging it had wrongfully denied his application to modify his loan. In his complaint, he acknowledged he had not been filing income tax returns, but asserted it was improper for Wells Fargo to have relied upon what his employer reported were his earnings, in order to ascertain his income. Williams also complained Wells Fargo failed to take into consideration unreported rental income he was receiving. When Wells Fargo rejected his application for a loan modification, he claims he was unable to pay the mortgage, which caused his credit rating to decline. Williams sought damages against Wells Fargo as a result.

In March 2015, the court granted Wells Fargo's motion to dismiss Williams' complaint. The court's decision was not included in the record but Williams' motion for reconsideration of the order dismissing his complaint was denied.

In June 2016, Wells Fargo filed a motion to vacate the final judgment of foreclosure, believing it had mistakenly omitted naming a judgment creditor in the foreclosure complaint. When it subsequently realized it had in fact named all necessary

parties in the complaint, Wells Fargo withdrew its motion before it was heard by the court.

Williams filed a second complaint against Wells Fargo in the Law Division, in which he made the same allegations as he had in his first complaint, but also contended he had not been properly served with the foreclosure complaint.<sup>1</sup> On September 2, 2016, the Law Division entered an order granting Wells Fargo's motion to dismiss Williams' second complaint. The court's decision is also not in the record, but in its brief Wells Fargo reports the court dismissed Williams' second complaint on the grounds his claims were "barred under the entire controversy doctrine and the preclusive effects of collateral estoppel and res judicata."

Williams filed a motion for reconsideration of the September 2, 2016 order. In his certification in support of his motion, Williams merely stated his second complaint had been properly served upon Wells Fargo, that he had timely filed a response to Wells Fargo's motion to dismiss his second complaint, and "in light of new evidence . . . I deserve to have my day in Court with fairness and due process to present my case

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<sup>1</sup> Williams contended he had not been properly served with the foreclosure complaint because it was served upon him by certified mail rather than by personal service.

and getting Justice against Wells [Fargo's] Mortgage Malpractice."

On October 14, 2016, the court entered an order denying Williams' motion for reconsideration. In its written statement of reasons, the Law Division held: "Movant provides no new facts, evidence or controlling case law[,] which is required under the rules of reconsideration." Williams appeals from the October 14, 2016 order.

In February 2017, Williams filed a motion in the foreclosure case to vacate the entry of default, the final judgment, and the writ of execution. The entirety of Williams' certification in support of his motion was: "There have been mistakes on them because the Default Judgment, Final Judgment and Writ of Execution were granted to Clarence's Properties, LLC not Christopher Williams which is the Owner of the property and Mortgagor of Loan Mortgage."

On March 17, 2017, the General Equity judge entered an order denying the motion, finding there were no grounds to do so under Rule 4:50-1. In addition, the court noted that although the caption reflects Clarence's Properties, LLC as a defendant,

Williams is also named as a party defendant in the final judgment and, thus, Williams' argument was factually incorrect.<sup>2</sup>

Williams filed a motion for reconsideration of the March 17, 2017 order. In its entirety, his supporting certification stated:

Mistakes in the Final Judgment and Writ of Execution as requested in an early Motion by [Wells Fargo's] Attorney. Wells Fargo's Attorney failed to include complaints made [by Williams] in the Final Judgment and Writ of Execution. Please see attached copy of the early motion of [Wells Fargo's] Attorney.

The motion Williams refers to in his certification is that which Wells Fargo filed when it erroneously believed it had not named all necessary parties in the foreclosure complaint and sought to dismiss the final judgment. As previously stated, Wells Fargo withdrew that motion before it was heard and decided.

In an order entered on June 9, 2017, the court denied Williams' motion for reconsideration, finding it was untimely pursuant to Rule 4:49-2. In addition, the General Equity judge noted Williams

brings a new argument claiming that because [Wells Fargo] previously filed a Motion to vacate Final Judgment and then withdrew it, this then somehow creates a mistake that

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<sup>2</sup> Although not mentioned by the court, the writ of execution and the order entering default also name Williams as a party defendant.

should have the Final Judgment vacated  
. . . .

[Williams] has failed to provide any legal analysis or argument of merit to show the court that a mistake exists to vacate Final Judgment. [Wells Fargo's] own Motion to Vacate Final Judgment, which was withdrawn, does not prove to the court that a mistake exists and now Final Judgment should be vacated.

The court also determined that, when he filed his initial motion the previous February, Williams could have advanced the argument "regarding [Wells Fargo's] mistake . . . and therefore [the argument] is not newly discovered." Finally, citing D'Atria v. D'Atria, 242 N.J. Super. 392, 401-02 (Ch. Div. 1990), the court found Williams failed to show its previous decision was based upon a palpably incorrect or irrational basis, or that it had not considered any probative, competent evidence. Williams also appeals from the June 9, 2017 order.

## II

On appeal, Williams challenges the October 14, 2016 Law Division order for the following reasons. He contends the court erred when it dismissed his second complaint, because: (1) there had been no discovery or trial before the complaint was dismissed; (2) in such complaint he had asserted service of the foreclosure complaint was insufficient as he had been served by certified mail rather than by personal service; and (3) he

suffered great financial hardship as a result of Wells Fargo making "mistakes in the Mortgage Loan Modification and the Foreclosure process."

Williams appeals from the June 9, 2017 General Equity order for the sole reason he had been served with the foreclosure complaint by certified mail and not by personal service.

Williams' notices of appeal reveal he challenges only the October 14, 2016 and the June 9, 2017 orders, and each order denied his a motion for reconsideration of an underlying order. If a "notice [of appeal] designates only the order entered on a motion for reconsideration, it is only that proceeding and not the order that generated the reconsideration motion that may be reviewed." Pressler & Verniero, Current N.J. Court Rules, cmt. 6.1 on R. 2:5-1 (2018); Fusco v. Bd. of Educ. of City of Newark, 349 N.J. Super. 455, 461-62 (App. Div. 2002) (reviewing only denial of the plaintiff's motion for reconsideration and refusing to review the original grant of summary judgment because that order was not designated in the notice of appeal).

Reconsideration of a decision is to be limited to only those cases where:

- (1) the [c]ourt has expressed its decision based upon a palpably incorrect or irrational basis, or
- (2) it is obvious that the [c]ourt either did not consider, or



failed to appreciate the significance of probative, competent evidence. . . .

Alternatively, if a litigant wishes to bring new or additional information to the [c]ourt's attention which it could not have provided on the first application, the [c]ourt should, in the interest of justice (and in the exercise of sound discretion), consider the evidence.

[D'Atria, 242 N.J. Super. at 401-02.]

As for the October 14, 2016 Law Division order, Williams does not challenge the court's reasons for denying his motion for reconsideration, which were that he had failed to bring to the court's attention any evidence or law it had overlooked. Second, none of the arguments he asserts on appeal in support of reversing the October 14, 2016 order was raised before the court when he advocated reconsideration of the underlying order.

"Generally, an appellate court will not consider issues, even constitutional ones, which were not raised below." State v. Galicia, 210 N.J. 364, 383 (2012) (citing Deerfield Estates, Inc. v. E. Brunswick, 60 N.J. 115, 120 (1972)). Even if the issues he asserts on appeal had been raised, the Law Division did not address them and, thus, we decline to do so in the first instance. Duddy v. Gov't Emps. Ins. Co., 421 N.J. Super. 214, 221 (App. Div. 2011). Therefore, because Williams raises arguments that were neither asserted before nor addressed by the

Law Division, not to mention he provides no reason why the court's decision was erroneous, we affirm the October 14, 2016 order.

Similar deficiencies afflict Williams' appeal of the June 9, 2017 General Equity order. He does not address why the court's reasons for denying his motion for reconsideration warrants reversal. In addition, the one argument he raises on appeal was not asserted in his motion for reconsideration, let alone decided. Accordingly, we affirm the June 9, 2017 order, as well.

Affirmed.

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

  
CLERK OF THE APPELLATE DIVISION