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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-3313-17T2

ELI REINITZ,

Plaintiff-Appellant,

v.

CHAYA REINITZ,

Defendant-Respondent.

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Argued May 30, 2018 – Decided June 4, 2018

Before Judges Fisher and Moynihan.

On appeal from Superior Court of New Jersey,  
Chancery Division, Family Part, Middlesex  
County, Docket No. FM-12-1971-13.

Lydia S. LaTona argued the cause for appellant  
(Snyder Sarno D'Aniello Maceri & da Costa LLC,  
attorneys; Angelo Sarno, of counsel and on the  
brief).

Mark Goldstein argued the cause for Goldstein  
Law Group, LLC (Mark Goldstein, on the brief).

Respondent, pro se, did not appear.<sup>1</sup>

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<sup>1</sup> Respondent was represented by the Goldstein Law Group, LLC, at the outset of these proceedings. That firm filed a brief on her behalf but has since moved to be relieved as counsel.

PER CURIAM

This short-lived but eventful matrimonial appeal now comes to an end, as we direct the parties back to where this particular dispute started.<sup>2</sup> Our disposition is best understood once the recent convoluted events are briefly outlined.

I

This appeal's history started with plaintiff Eli Reinitz's March 23, 2018 application for emergent handling of a motion seeking to overturn trial court orders entered on March 5 and 20, 2018. The first of those orders was triggered by an order to show cause (OSC) that chiefly related to defendant Chaya Reinitz's attempt to obtain custody of the parties' five children but which also included Chaya's request for an award of alimony arrears. Unfortunately, Eli was given almost no time to respond. The OSC was entered on February 27, 2018, and argument heard the next day, at which time the judge rendered an oral opinion that contained his reasons for denying without prejudice Chaya's request for a change of custody but granted the alimony application. The memorializing order, which was entered on March 5, directed Eli

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<sup>2</sup> "We shall not cease from exploration and the end of all our exploring will be to arrive where we started and know the place for the first time." T.S. Eliot, Four Quartets: Little Gidding stanza V (1943).

to pay \$47,788.28 in alimony arrears to be enforced by issuance, if necessary, of a warrant for Eli's arrest. On March 20, another judge denied Eli's reconsideration motion.

Eli quickly sought leave to file an emergent motion for relief from the March 5 and 20 orders. We granted that application and immediately stayed the March 5 order pending our disposition of Eli's anticipated emergent motion.

Per our order, Eli filed, on March 27, 2018, both a notice of appeal of the March 5 and 20 orders, and a motion, which sought a vacation of those orders or, in the alternative, a stay of the March 5 order. Two days later, Chaya – through counsel – filed opposition and a notice of cross-appeal.

On April 4, 2018, we denied Eli's motion for an immediate vacating of the orders but we continued the stay of the March 5 order "pending our disposition of the appeal." We also expedited the appeal and cross-appeal, placing those matters on our May 30, 2018 plenary calendar. We already had the benefit of the parties' written submissions on the alimony issues but because there were no submissions regarding the cross-appeal, we provided the parties with an opportunity to supplement their existing submissions and to address the issues posed by the cross-appeal.

Chaya, however, withdrew her cross-appeal, and, by the end of April, her attorney moved to be relieved as counsel. Chaya has

not opposed her attorney's motion, and neither she nor her attorney filed any additional briefs on the merits of Eli's appeal beyond what was submitted in opposition to Eli's emergent motion.

Proceeding without the assistance of her attorney, Chaya then sought emergent relief. She provided evidence of her imminent eviction by way of a tenancy action and her need for the alleged unpaid alimony that was compelled by the March 5 order under review. On April 30, 2018, we ordered a limited remand so Chaya might move for emergent relief in the trial court in light of a pending proceeding in the tenancy matter scheduled to occur on May 1, 2018.

We learned of the outcome of our limited remand when Chaya submitted, on May 11, 2018, yet another emergent application. This time she sought permission to file emergent motions concerning both the matrimonial and tenancy matters. That application revealed that, on April 30, 2018, the tenancy judge again ordered that Chaya return possession of the premises to her landlord; a sheriff's notice, included within her submission, revealed that she would be physically removed if she did not vacate by May 15, 2018.

Chaya's application also advised of an order entered by the family judge on May 1, 2018, by which the judge denied without prejudice Chaya's emergent trial court application for monetary

relief from Eli. The judge explained in his order that he did not view the matter as emergent and that Chaya could file a motion in the ordinary course so long as it fell within the parameters of our limited remand.

We permitted Chaya to file emergent motions in the matrimonial and tenancy matters. We also stayed the eviction pending further order of this court. Although the application on the tenancy matter was not compelling, we continued the stay of eviction; in balancing the hardships, we recognized that disposition of this matrimonial appeal was imminent and, therefore, a brief preservation of the status quo in the tenancy matter was warranted. See Waste Mgmt. of N.J., Inc. v. Morris Cty. Mun. Utils. Auth., 433 N.J. Super. 445, 453-54 (App. Div. 2013).

After seeking multiple extensions, Chaya finally filed, on May 24, 2018, her emergent motions concerning the April 30 tenancy order and the May 1 family court order. Responses have been filed, so those applications are also now before us for disposition.

## II

Despite that long procedural story, there is little for us to decide. Eli's appeal requires that we determine whether the March 5 order should be vacated because of "procedural and substantive violations" and whether, as a consequence, we should

compel a reassignment of the matter to another judge. We also still have before us the motion filed by Chaya's attorney to be relieved, as well as Chaya's appeal of the May 1, 2018 trial court order.<sup>3</sup>

The procedure that produced the monetary aspects of the March 5 order was described in our April 4 order, which stayed the March 5 order:

The record shows that Chaya's counsel submitted an order to show cause and supporting papers to the trial judge on February 27, 2018. Chaya chiefly sought the vacating of an order, which transferred custody of the children to Eli, that had been entered thirteen months earlier. Even if that circumstance presented an emergency that entitled the trial court to deal with it on an expedited basis – a matter we need not now decide – Chaya also included within her application a request for economic relief, including a claim that unpaid alimony had accrued over the course of many preceding months. The judge heard argument from the parties regarding this application the next day, February 28, 2018. Eli, who was then unrepresented, had little or no opportunity to respond and was left to fend for himself on Chaya's multi-faceted claim for relief at

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<sup>3</sup> As noted, we were presented with a request for emergent handling of the April 30 tenancy order. We immediately stayed the pending eviction and allowed for an emergent motion. Chaya provided little to suggest any infirmity in those proceedings. Nevertheless, in light of the remand of the family court proceedings, we will maintain the stay of eviction for an additional fourteen days from today's date, after which it will automatically terminate. That will provide Chaya with a fair opportunity to seek further relief not only in the family court but in the tenancy court following today's decision.

oral argument on February 28. We are not greatly moved by the contention that Eli was given a fair opportunity to respond because the judge continued the matter for an hour over the lunch break to give Eli a chance to respond.

[Footnote omitted.]

Our view is unchanged.

Eli was entitled to more time to respond to the monetary aspects of Chaya's application. See Rubin v. Rubin, 188 N.J. Super. 155, 159 (App. Div. 1982) (recognizing that "the court system is obliged to protect the procedural rights of all litigants and to accord procedural due process to all litigants"). He was given less than a day to respond, far less than the Court Rules anticipate. See R. 5:5-4; R. 1:6-3. To be sure, the requirements of due process are flexible and what process may be due a particular litigant depends on the circumstances; so viewed, the judge's desire to deal as quickly as he did with the custody application may have been appropriate. But the monetary issues, which had festered for many months, posed no such urgency. Consequently, we vacate the monetary aspects of the March 5 order and remand for a relisting of Chaya's application, by way of the OSC, for alimony arrears and other related relief, and for the scheduling of a reasonable amount of time for Eli to file written opposition prior to that application's eventual return date. The

scheduling and disposition of the alimony application – and any ability-to-pay hearing that may be necessary – should take into consideration the fact that our stay of the imminent eviction in the tenancy matter will terminate in fourteen days. See n.3, above.

We reject that part of Eli's appeal that seeks reassignment of the matter to another family judge. It seems readily apparent that the judge was motivated only by a desire to expeditiously resolve the parties' disputes and disagreements. While the judge acted precipitously, there is no reason to suspect he cannot or will not in the future fairly decide the current dispute and any other issues that may arise.

### III

That leaves a few stray matters. "Ash on an old man's sleeve" that "marks the place where a story ended." Little Gidding, stanza II.

Another judge's March 20 order, which denied reconsideration of the March 5 order, has been rendered moot by our disposition of Eli's appeal of that March 5 order. Moot as well is Chaya's appeal of the May 1, 2018 order, by which the judge denied without prejudice Chaya's application for economic relief after we remanded for that purpose.




We deny without prejudice the motion of Chaya's attorney to be relieved. He may refile that motion in the trial court.

IV

To summarize, we vacate that part of the March 5 trial court order that awarded monetary relief to Chaya and remand for further proceedings on that part of Chaya's trial court motion in conformity with this opinion. We dismiss Eli's appeal insofar as it seeks review of the March 20 order, and we dismiss Chaya's appeal of the May 1 order; those issues have been rendered moot by our disposition of Eli's appeal of the March 5 order. And we deny without prejudice the motion of Chaya's attorney to be relieved.

Vacated in part, dismissed in part, and remanded in part. We do not retain jurisdiction.

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

  
CLERK OF THE APPELLATE DIVISION