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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-5515-15T1

MICHAEL BANDLER,

Plaintiff-Appellant,

v.

JOANNA KOSTAS,

Defendant-Respondent.

Argued December 5, 2017 – Decided January 18, 2018

Before Judges Yannotti and Mawla.

On appeal from Superior Court of New Jersey,
Law Division, Atlantic County, Docket No.
L-2225-12.

Michael Bandler, appellant, argued the cause
pro se.

Respondent Joanna Kostas has not filed a
brief).

PER CURIAM

Plaintiff Michael Bandler appeals from an order entered by
the Law Division on August 10, 2016, which denied his motion for
reconsideration of an order filed on June 1, 2016. We affirm.

Plaintiff secured a \$10,000 judgment against defendant Joanna Kostas. She did not pay the judgment and plaintiff took steps to enforce it through a series of post-judgment motions for discovery regarding defendant's income and assets. Defendant did not comply with orders requiring her to appear and provide discovery. A warrant for her arrest was issued, but the sheriff did not arrest her.

In June 2015, plaintiff attempted to conduct a deposition of defendant's father. According to plaintiff, defendant appeared and disrupted the deposition. Plaintiff then filed a motion to have the father's deposition taken under court supervision. On January 14, 2016, the motion judge entered an order denying the motion, finding that it was not within the court's jurisdiction to compel the father's deposition.

Plaintiff then filed a motion for reconsideration, which the motion judge denied on June 1, 2016. The judge found that the motion for reconsideration was not timely since it had not been filed within twenty days of the January 14, 2016 order, as required by Rule 4:49-2.

Plaintiff filed a motion for reconsideration of the June 1, 2016 order. The motion judge denied the motion, noting it had been filed on July 18, 2016, which exceeded the twenty-day time period required by Rule 4:49-2. This appeal followed.

"[T]he standard of review where there is a denial of a motion for reconsideration . . . is 'abuse of discretion.'" Cummings v. Bahr, 295 N.J. Super. 374, 389 (App. Div. 1996). Rule 4:49-2 requires a motion for reconsideration be served no later than twenty days after service of an order upon the party obtaining it. "The time prescription of th[e] rule applies only to final judgments and orders." Rusak v. Ryan Auto., LLC, 418 N.J. Super. 107, 117 n.5 (App. Div. 2011) (alteration in original) (quoting Pressler & Verniero, Current N.J. Court Rules cmt. 1 on R. 4:49-2 (2011)). Moreover, the twenty-day time period for filing a motion for reconsideration may not be relaxed. See Baumann v. Marinaro, 95 N.J. 380 (1984); see also R. 1:3-4(c).

On appeal, plaintiff argues that post-judgment discovery ordered pursuant to Rule 4:59-1(f) is interlocutory and not subject to the time period set forth in Rule 4:49-2. Plaintiff also argues the merits of the motion judge's decision to deny him the ability to enforce the right to depose defendant's father pursuant to Rule 4:59-1(f).

There is no doubt that the ability to undertake post-judgment discovery for purposes of enforcing and executing a money judgment is broad. Indeed, as plaintiff notes, Rule 4:59-1(f) provides for supplementary proceedings as follows:

In aid of the judgment or execution, the judgment creditor or successor in interest appearing of record, may examine any person, including the judgment debtor, by proceeding as provided by these rules for the taking of depositions or the judgment creditor may proceed as provided by R. 6:7-2, except that service of an order for discovery or an information subpoena shall be made as prescribed by R. 1:5-2 for service on a party. The court may make any appropriate order in aid of execution.

Also, Rule 6:7-2(d) and (e) provide for the ability of the judgment creditor to pursue proceedings for the enforcement of post-judgment discovery through a motion to enforce litigant's rights pursuant to Rule 1:10-3.

However, an order entered for post-judgment discovery that adjudicates a request to order or compel cooperation with the discovery process is only interlocutory where no final determination regarding relief sought has been made. See Saltzman v. Saltzman, 290 N.J. Super. 117, 124 (App. Div. 1996) (holding a post-judgment order requiring an ability to pay hearing to determine whether a judgment debtor should be incarcerated for non-payment of support is interlocutory until the determination to incarcerate is made).

Here, the motion judge's June 1, 2016 order denying plaintiff's motion for reconsideration of the earlier order denying the deposition of defendant's father was final because it

did not require further proceedings. The motion judge made a final determination to deny plaintiff's request to enforce litigant's rights. Therefore, the motion judge did not err by finding plaintiff's motion for reconsideration was not filed timely. For these reasons, we do not reach plaintiff's argument the motion judge erred in finding the court lacked the ability to compel the post-judgment deposition.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION