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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-1430-21**

JESUS PAULINO,

Plaintiff-Appellant,

v.

ELENA GUZMAN-CORNEJO
and LISSETTE N. TORRES,

Defendants-Respondents,

and

GEICO INSURANCE
COMPANY,

Defendant.

Submitted March 29, 2023 – Decided June 23, 2023

Before Judges Accurso and Vernoia.

On appeal from the Superior Court of New Jersey,
Law Division, Passaic County, Docket No. L-1424-21.

Law Office of Jeffrey Randolph, LLC, attorneys for
appellant (Jeffrey Randolph, on the briefs).

Law Office of Frank A. Viscomi, attorneys for respondents (Mario C. Colitti, on the brief).

PER CURIAM

Plaintiff Jesus Paulino was involved in a car accident on April 8, 2019, with another car driven by defendant Elena Guzman-Cornejo and possibly owned by defendant Lissette N. Torres. Plaintiff filed a complaint on April 28, 2021, against both women as well as against his insurance carrier, defendant GEICO.¹

Defendants Guzman-Cornejo and Torres filed a motion to dismiss based on the statute of limitations. Plaintiff opposed the motion, contending his complaint was timely based on Chief Justice Rabner's omnibus orders during the early days of the COVID-19 pandemic directing "the period from March 16, 2020 through May 10, 2020 shall be deemed the same as a legal holiday" for computation of all time periods, including statutes of limitations. See Sup. Ct. of N.J., Second Omnibus Order on COVID-19 Issues, at 11 (Apr. 24, 2020).

Plaintiff claimed the Chief Justice's omnibus orders tolled the two-year statute of limitations for personal injury actions, N.J.S.A. 2A:14-2(a), and thus

¹ Plaintiff advises in his brief that his claims against GEICO have been resolved. The company is not a party to this appeal.

the fifty-five days between March 16 and May 10, 2020, are not to be included in the calculation of the limitations period. Plaintiff claimed the additional fifty-five days made June 2, 2021, the last day to file his complaint for the April 8, 2019 accident.

Judge Darren Del Sardo disagreed. In a written statement of reasons dismissing the complaint as time-barred, the judge looked to Rule 1:3-1, which provides in pertinent part that "[i]n computing any period of time fixed by rule or court order . . . [t]he last day of the period . . . is to be included, unless it is a . . . legal holiday, in which event the period runs until the end of the next day which is . . . [not a] legal holiday." The judge found that because the fifty-five-day period is "treated as a legal holiday, the time period functions as a suspension," permitting any claim for which the statute expired between March 16 and May 10, 2020, to be deemed timely if filed on May 11, 2020 — the day after the legal holiday. Because the statute of limitations for plaintiff's claim was "nearly a year later," the judge found the omnibus orders did not apply and dismissed plaintiff's claim as untimely filed.

Plaintiff appeals, reprising the argument he made in the trial court that his complaint was timely filed because of the additional fifty-five days added to the limitations period by virtue of the Chief Justice's omnibus orders.

Following the entry of Judge Del Sardo's order, we rejected the same argument in Barron v. Gersten, 472 N.J. Super. 572, 578-80 (App. Div.) certif. denied, 252 N.J. 429 (2022). In Barron, we reasoned very similarly to Judge Del Sardo that "Rule1:3-1 makes clear when the statute of limitations expires on a legal holiday, the party must act on the next day that is not a Saturday, Sunday, or legal holiday"; it "does not add to the statute of limitations all Saturdays, Sundays, or legal holidays that fall within the statute-of-limitations period." Id. at 578.

Although we issued our opinion in Barron before the parties filed their briefs in this matter, and defendants relied on it in their opposition brief, plaintiff does not address the case in either of the two briefs he filed in this court. As we find Barron both well-reasoned and dispositive of the issue raised on this appeal, we follow it and affirm Judge Del Sardo's decision to dismiss plaintiff's complaint as untimely.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION