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**SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-3412-21**

ALLEN SATZ,

Plaintiff-Appellant,

v.

JOSEPH SIRAGUSA,

Defendant-Respondent.

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Argued May 23, 2023 – Decided August 21, 2023

Before Judges Gilson and Gummer.

On appeal from the Superior Court of New Jersey, Law  
Division, Bergen County, Docket No. L-2165-22.

Allen Satz, appellant, argued the cause pro se.

Andrew J. Gibbs argued the cause for respondent  
(Wade Clark Mulcahy LLP, attorneys; Thomas J.  
Decker, on the brief).

PER CURIAM

In the matrimonial litigation between plaintiff Allen Satz and his former  
wife, a Family Part judge appointed defendant Joseph Siragusa, M.D., to

conduct a psychiatric evaluation of plaintiff. After defendant issued a written evaluation of plaintiff in that case, plaintiff sued him in this separate action, alleging breach of contract. The trial court granted defendant's motion to dismiss based on immunity and waiver grounds. We agree defendant had immunity under the litigation privilege and affirm.

## I.

This appeal comes to us on a Rule 4:6-2(e) motion to dismiss; thus, we accept the facts alleged in the complaint as true, granting plaintiff "every reasonable inference of fact." Major v. Maguire, 224 N.J. 1, 26 (2016) (quoting Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989)). "In evaluating motions to dismiss, courts consider allegations in the complaint, exhibits attached to the complaint, matters of public record, and documents that form the basis of a claim." Myska v. N.J. Mfrs. Ins. Co., 440 N.J. Super. 458, 482 (App. Div. 2015) (quoting Banco Popular N. Am. v. Gandi, 184 N.J. 161, 183 (2005)). Under that standard, we consider the following facts.

In the matrimonial case, the guardian ad litem (GAL) of plaintiff's children recommended to the Family Part judge presiding over the case that plaintiff be evaluated by a psychiatrist. The judge appointed defendant to conduct that evaluation.

On October 10, 2021, plaintiff executed a document entitled "INFORMED CONSENT FOR PSYCHIATRIC ASSESSMENT/EVALUATION SERVICES." That document stated defendant was a psychiatrist "operating in the capacity of performing . . . forensic assessment/evaluation services" in the matrimonial case. Plaintiff "underst[oo]d and agree[d]" defendant was providing "[s]ervices related to a psychiatric evaluation for [d]iagnostic [p]urposes and/or a general assessment of [plaintiff's] mental health or previous mental health history." Plaintiff stated he understood defendant was "not acting as a personal therapist, psychiatrist, or physician to [him] . . . [and was] not treating [him]." He also stated he understood "the [s]ervices may be rendered for use in court proceedings for various purposes and decisions . . . [and] that participating in the [s]ervices may result in unwanted consequences such as loss/restriction of custody as it pertains to children involved in the [m]atter." Plaintiff "agree[d] to hold [defendant] harmless from all liability related to the [s]ervices and the[m]atter . . . [and] to not engage in any litigation with [defendant] and/or related to the [s]ervices or the [m]atter."

After interviewing plaintiff, reviewing documents, and communicating with others including the GAL and a therapist of one of the children, defendant issued a November 12, 2021 psychiatric evaluation of plaintiff. In the

evaluation, defendant noted plaintiff had failed to disclose he took Adderall. According to defendant, the prescription monitoring program indicated plaintiff had been prescribed thirty milligrams of Adderall to be taken twice a day. Defendant found plaintiff's omission "raise[d] concerns regarding how forthcoming [plaintiff] has been overall." In the "Diagnostic Impression" section of his report, defendant diagnosed plaintiff as having "Unspecified Personality Disorder with Strong Narcissistic, Borderline Traits, and Antisocial Traits" and stated "[r]ule out Stimulant Use Disorder." Defendant recommended, among other things, that plaintiff undergo "[u]rine and [h]air follicle toxicology testing" and have a "Treatment Assessment Services for the Courts . . . evaluation to further assess possible substance abuse issues."

On December 26, 2021, plaintiff filed a complaint against defendant in the Special Civil Part. After a judge dismissed that complaint on jurisdictional grounds, plaintiff filed a complaint against defendant in the Law Division on April 13, 2022. In that complaint, plaintiff alleged that on October 10, 2021, he had paid defendant to "perform a psychiatric evaluation" of him. According to plaintiff, the parties had entered into a contract, which defendant breached by "putting things into the evaluation he said he wouldn't" and by making "obvious mistakes" in the evaluation, specifically by misstating the amount of medication

plaintiff takes. Plaintiff alleged that, based on his misstatement about plaintiff's medication, defendant had recommended plaintiff "get drug tested." Plaintiff claimed defendant had caused him "undue harm and embarrassment" and "undue stress." Plaintiff also alleged defendant had "done nothing to supply the proper information," thereby violating his "constitution[al] and civil rights."

Defendant moved to dismiss the complaint, arguing he had immunity as a court-appointed expert who was acting in the scope of his duties and plaintiff had waived any right to sue him. After hearing argument, the trial court granted the motion in a decision placed on the record. The court found defendant was entitled to immunity because he had been appointed by the Family Part judge; was serving the court, not plaintiff; and was "focused on the best interest of the children in mind when he was authoring th[e] report." The court also found plaintiff had waived any right to sue defendant in the informed-consent document. The court issued an order on June 30, 2022, dismissing the complaint with prejudice pursuant to Rule 4:6-2(e).

## II.

On appeal, plaintiff argues the trial court erred by misapplying caselaw about immunity, ignoring evidence and law, and failing to recognize defendant had not performed his duties to the standard of care of his profession. We review

a decision on a Rule 4:6-2(e) dismissal motion "de novo, without deference to the judge's legal conclusions." McNellis-Wallace v. Hoffman, 464 N.J. Super. 409, 415 (App. Div. 2020). Whether a defendant is entitled to immunity is "a question of law to be decided [as] early in the proceedings as possible, preferably on a properly supported motion for summary judgment or dismissal." Wildoner v. Borough of Ramsey, 162 N.J. 375, 387 (2000). Based on our independent review of the applicable law, we agree defendant was entitled to immunity pursuant to the litigation privilege and, accordingly, affirm.

"It is well-settled that a witness in a judicial or quasi-judicial proceeding enjoys an absolute immunity from civil suit for his words and actions relevant to the judicial proceedings." Durand Equip. Co. v. Superior Carbon Prods., Inc., 248 N.J. Super. 581, 583 (App. Div. 1991). "This absolute immunity is afforded even if 'the words are written or spoken maliciously, without any justification or excuse, and from personal ill will or anger . . . .'" Id. at 583-84 (quoting DeVivo v. Ascher, 228 N.J. Super. 453, 457 (App. Div. 1988)). The litigation privilege is premised on the notion that people involved in litigation should enjoy the freedom "to speak and write freely" so they can express the truth of the matter as they view it "without fear of liability." Williams v. Kenney, 379 N.J. Super. 118, 134 (App. Div. 2005); see also Loigman v. Twp. Comm. of

Middletown, 185 N.J. 566, 581 (2006) (explaining that the purpose of the litigation privilege is "to ensure that participants in the judicial process act without fear of the threat of ruinous civil litigation when performing their respective functions"); Hawkins v. Harris, 141 N.J. 207, 217 (1995) (noting "we wish witnesses to have absolute freedom to express the truth as they view it").

The litigation privilege applies to "any communication (1) made in judicial or quasi-judicial proceedings; (2) by litigants or other participants authorized by law; (3) to achieve the objects of the litigation; and (4) that have some connection or logical relation to the action." Hawkins, 141 N.J. at 216 (quoting Silberg v. Anderson, 786 P.2d 365, 369 (Cal. 1990)). It "is not limited to statements made in a courtroom during a trial; 'it extends to all statements or communications in connection with the judicial proceeding.'" Ibid. (quoting Ruberton v. Gabage, 280 N.J. Super. 125, 133 (App. Div. 1995)); see also Williams, 379 N.J. Super. at 134 (holding the privilege "is not limited to statements made under oath"). The privilege, however, "does not extend to statements published outside of a judicial proceeding to persons not connected with it." Williams, 379 N.J. Super. at 135 (quoting Citizens State Bank of N.J. v. Libertelli, 215 N.J. Super. 190, 197-98 (App. Div. 1987)).

In P.T. v. Richard Hall Community Mental Health Care Center, 364 N.J. Super. 546, 548 (Law Div. 2000), aff'd o.b., 364 N.J. Super. 460 (App. Div. 2003), P.T. had been a party in a divorce action. The judge presiding over that action appointed a psychologist to conduct an evaluation of P.T. in connection with his contact and visitation with his child. Ibid. After the psychologist conducted the evaluation and issued a report, P.T. and his parents sued the psychologist and others involved in the divorce action, claiming, among other things, the psychologist had violated his constitutional rights. Id. at 548-49. In a decision we subsequently affirmed, then Judge Helen E. Hoens held the psychologist was entitled to absolute immunity based on her status as a court-appointed expert:

[The psychologist], in her role as a court-appointed expert psychologist charged with evaluating . . . and . . . with making recommendations to the Family Part judge, performed a role which was integral to the decision-making function of the court. As a result, based upon the analysis of the function she was charged with performing, she is entitled to the immunity which is afforded to the decision-making function itself. Alternatively, strong public policy reasons mandate that she be able to perform that role with candor and without fear of reprisal, lest her judgment be clouded or her willingness to serve be diminished. As a result, on this alternative ground as well, she is entitled to the protection of immunity.

[Id. at 560.]



We are satisfied the litigation privilege applies to the circumstances of this case. Plaintiff complains about what defendant says in his written evaluation of him and how defendant conducted that evaluation. Defendant rendered that evaluation as a court-appointed psychiatrist for the Family Part judge's consideration in the pending matrimonial litigation. Defendant meets all four elements of the litigation privilege set forth in Hawkins, 141 N.J. at 216, and, thus, is cloaked with immunity against the type of litigation plaintiff filed against him.

Because we conclude defendant was entitled to immunity under the litigation privilege and the trial court correctly dismissed the case, we do not reach the issue of waiver. We do not address plaintiff's remaining arguments because they lack sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

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



CLERK OF THE APPELLATE DIVISION