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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0235-12T2

NATIONAL FIREPROOFING AND
INSULATION COMPANY,

Plaintiff-Appellant/
Cross-Respondent,

v.

SKANSKA USA BUILDING, INC.,

Defendant-Respondent/
Cross-Appellant.

Argued September 29, 2014 – Decided August 11, 2015

Before Judges Simonelli, Guadagno and Leone.

On appeal from the Superior Court of New Jersey, Law Division, Bergen County, Docket No. L-5270-09.

Patrick T. Collins argued the cause for appellant/cross-respondent (Franzblau Dratch, attorneys; Mr. Collins, on the brief).

Peter E. Moran argued the cause for respondent/cross-appellant (Peckar & Abramson, P.C., attorneys; Mr. Moran, on the brief).

PER CURIAM

In this matter, plaintiff National Fireproofing and Insulation Company (NFI) subcontracted with defendant Skanska USA Building, Inc. (Skanska) to provide all spray-on fireproofing for MetLife Stadium. Disputes between the parties arose during the course of the work, resulting in termination of the contract and NFI's replacement with other fireproofing contractors. The parties each sought damages from each other for breach of contract.

Following an eight-day bench trial, Judge Susan J. Steele found both sides at fault, but awarded Skanska partial damages plus counsel fees and costs. NFI appeals and Skanska cross-appeals. For the following reasons, we affirm.

We derive the following facts from the record.

The Bid Process

In 2007, New Meadowlands Stadium L.L.C. (New Meadowlands) contracted with Skanska to construct MetLife Stadium. In connection with the project, Skanska began soliciting spray-on fireproofing bids, which were due on December 5, 2007. Included in the bid package were architectural drawings depicting cross-sectional views of the stadium with shaded areas that marked those portions of the stadium requiring spray-on fireproofing. NFI's only witness, Lou Popstefanov, admitted that NFI received

all bid drawings necessary to develop NFI's bid and that he attended pre-bid meetings where bidders questioned Skanska's representatives about the extent of the fireproofing work.

During the bidding process, Skanska's bid package manager, Andrew Keglovitz, responded to bidders' questions about the fireproofing work. The bidders were concerned that the architectural drawings were inadequate to determine precisely where fireproofing was required, as those drawings only depicted a portion of the stadium, did not depict the individual steel members requiring fireproofing, and did not clearly identify the areas of the stadium deemed to be enclosed or not enclosed.

Keglovitz subsequently sent the bidders "cheater drawings," which were color-coded drawings that specifically identified where fireproofing was required or not: orange areas were "no paint (entire [steel] member spray fireproofed)"; blue areas were "primer only (partial fireproof and partial exposed)"; and pink areas were "primer & intermediate (fully exposed, no [fireproofing])."

In order to keep all bidders on an even par, Keglovitz gave them both the questions he received and his responses. On November 16, 2007, he responded to one of the questions as follows:

> [Question]: On the cheat sheets we received, you have highlighted the steel

> with three different colors, showing the steel that will be sprayed on fireproofing. There is steel on many sheets that is not highlighted. Do we have to spray that steel?
>
> [Response]: The [cheat] sheets overlay each other, we could not fit all the steel on one sheet, you will have to take the sheets and match up the columns to make up the stadium. I am locating Quad D that seems to be missing in [the] set for some reason, [and] will forward as soon as I get it.

This communication became addendum 2 to the bid specifications. Keglovitz testified that on November 20, 2007, Skanska sent addendum 2 to the bidders along with copies of all architectural, mechanical, electrical, structural, life, and safety drawings. He also testified that the cheater drawings were supplemental to the drawings and specifications and that Skanska never told bidders to rely on the cheater drawings in developing their bids.

Keglovitz continued issuing bid information thereafter. For example, on November 28, 2007, he sent the bidders a question he received as to whether certain columns not color-coded on the cheater drawings had to be fireproofed, along with his response that bidders had to refer to drawings S4-1 to S4-8 for this information. This communication became bid specification addendum 3.

On December 3, 2007, Keglovitz responded to another

question about the extent of fireproofing as follows:

> There are [two] general criteria for determining [the] extent of fireproofing:
>
> A) All structural steel beams and columns within enclosed spaces need to be fireproofed. Columns and beams which are partially within [enclosed] space and partially outdoors need to have those portions which are in enclosed [spaces] fireproofed.
>
> B) The underside of all roof decks above enclosed spaces need[s] to be fireproofed.

This communication became bid specification addendum 4. Thereafter, Popstefanov attended pre-bid meetings with Keglovitz and other bidders to ensure they had all the necessary bid information.

Popstefanov submitted NFI's a bid for $1,174,815 along with executed copies of the four addenda. He arrived at the bid figure using the cheater drawings, assuming that the pink color-coded areas did not require fireproofing. On the cheater drawings, the underside of the area called Concourse One, specifically the area above the service level roof, was pink color-coded.

The Subcontract

Skanska accepted NFI's bid, and the parties entered into a subcontract agreement, dated January 9, 2008. The subcontract required NFI to perform the work in accordance with and to

comply with all requirements of the numerous exhibits that were part of the subcontract. Exhibit A required NFI to select fireproofing products that complied with the bid specifications and were compatible with one another, with existing work and with the products selected by others. Before applying the fireproofing, NFI had to prepare bare, partly-painted, or fully-painted steel and fireproof the metal so as to "deliver a complete and warrantable system." Popstefanov agreed that where fireproofing was to be applied to painted steel, NFI had to affix a metal lathe or mesh in order for the fireproofing to adhere. He acknowledged that those steps complicated the process and required additional time.

Exhibit A also required NFI to maintain the work schedule and sequencing set forth in Exhibit D from the date an area was made available to NFI until NFI released the area to other trades. Exhibit A also contained a provision that allotted sixty crew days for patching/repair work and stipulated how the work was to be performed. For example, patching would be coordinated through Skanska's superintendents and documented by daily tickets; otherwise, Skanska would not credit the time to the patching allotment built into NFI's bid. Popstefanov agreed that he had considered the patching/repair work when calculating NFI's bid amount.

Exhibit B to the subcontract listed all of the drawings, sketches, specifications, addenda and other documents that were part of the subcontract and composed the scope of NFI's work. Exhibit A required NFI to examine all of these documents "so that there is a full understanding of what is required . . . [and NFI] cannot make the excuse that [the required work] was not shown on the drawings [and] therefore 'it was not included.'" The cheater drawings were not listed in Exhibit B.

Exhibit E contained a standard of performance provision that required NFI to perform consistent "with that level of skill contemporaneously prevailing among nationally recognized constructors working on major league professional sports stadium[s]" and on comparable multi-purpose facilities. Skanska could inspect NFI's work to ensure compliance with the subcontract and could reject work deemed noncompliant. In such cases, upon notice, NFI had to remove and correct the rejected work within a specified period, or Skanska could correct the problem at NFI's expense.

Exhibit E also provided that all "contract documents"[1] were deemed complementary and were to be read as a whole, so that work required by one part and not mentioned in another--for

[1] The contract identified the "contract documents" as the contract and exhibits.

example an item shown in a drawing but not listed in the specifications--"shall be executed to the same extent as though required by all." Exhibit E provided that in the event of a conflict "between one or more provisions of the [c]ontract [d]ocuments, the provision imposing the more demanding term, condition, duty or standard of performance, or the greater limitation on the nature and type of relief or damages allowed to [NFI], shall control."

Exhibit E required NFI to study the contract documents and notify Skanska, in writing, of any errors, inconsistencies or ambiguities. The record does not reveal that NFI complained about any of the contract documents.

Under Exhibit E, NFI's performance was an essential condition and its failure to meet the schedules was deemed material. Nevertheless, Skanska could decide the time, order, and priority of NFI's work and direct the work in its judgment, and NFI would not be entitled to an adjustment of the subcontract amount or an extension of time in connection with any such direction. If Skanska determined that NFI was behind or in danger of falling behind in its work, or was responsible for any delays, then Skanska, on written notice, could take steps as it deemed necessary to improve the rate of progress, including requiring NFI to increase its workforce, equipment or

hours of operation. Upon notice, Skanska could require NFI to further clean or remediate its work areas. NFI's refusal to perform any necessary remediation could result in Skanska performing remediation at NFI's cost.

The subcontract required NFI to perform all of its work for the subcontract amount unless modified through change orders. Exhibit E addressed changes and provided that

> [Skanska] shall have the right in its discretion at any time prior to final completion of the Work on written notice to [NFI] (and without notice to [NFI's] sureties), to direct a "Change[.]" In the event of a Change, the Subcontract Amount and/or [NFI's] time for performance shall be adjusted, if at all, by way of a written amendment or "Change Order" to the Subcontract as set forth in [Exhibit E]. Unless directed by [Skanska] to proceed immediately with a Change, [NFI] shall submit a written request to [Skanska] for a Subcontract adjustment as provided in [Exhibit E] prior to proceeding with a Change.

Exhibit E also provided that a "change" could be an addition, reduction, acceleration, suspension or other modification in the scope or time for performance of NFI's work, and either Skanska or New Meadowlands could request changes. If Skanska requested a change, once it communicated the request to NFI, the burden shifted to NFI to actually formalize the request in a written change order. In this regard, Exhibit E provided that

> [NFI] shall submit its written request for a Change Order within seven (7) days of receipt of [Skanska's] Change notice. [NFI's] request shall include documentation sufficient to enable [Skanska] to determine the factors necessitating the adjustment(s) being requested. If [Skanska] decides to proceed (or [NFI] has already proceeded with the prior written direction of [Skanska]) with the Change and a Subcontract adjustment is warranted, [Skanska] shall issue a Change Order to [NFI] adjusting the Subcontract either: (i) as requested by [NFI], or, (ii) in the event [Skanska] disagrees with [NFI's] statement as to the effect of the Change, [Skanska] shall issue a Change Order to [NFI] on terms [Skanska] reasonably deems appropriate. [NFI] shall thereafter perform the Work in accordance with the Change Order, subject to dispute resolution under [Exhibit E]. [NFI] shall have no right to suspend or delay the performance of its obligations under the Subcontract while [Skanska] is reviewing [NFI's] adjustment request or if [NFI] disagrees with the Change Order issued by [Skanska].

Exhibit E also permitted Skanska to decide at any time in its discretion not to proceed with a change and to do so without obligation to NFI.

Exhibit E further provided that Skanska would determine the amount of any additional compensation to be paid to NFI because of any changes through one of three alternatives: a lump sum payment in the amount NFI requested; payment based on unit prices stated in Exhibit C; or payment based on time and materials (T&M) in accordance with protocols further delineated in the subcontract. For example, if NFI had to provide

temporary heating (with tarps, heaters and propane), Exhibit C entitled it to a stipulated per diem rate of $5800 for any given 5000-square-feet work space. If NFI and Skanska did not agree on the proper compensation for a change or the time for performance, and Skanska issued a directive, NFI had to do the work nonetheless and document its costs. Exhibit E required that matters such as acceleration, disruption or inefficiency impacting NFI's ability to complete the work in timely fashion or entitling it to additional compensation be raised within five days.

Exhibit E also addressed termination of the subcontract and NFI's liability for delays. Skanska could terminate the subcontract without cause or prejudice and at its convenience, upon written notice to NFI. Among matters that Skanska could consider a default and that would also allow it to terminate were NFI's insolvency; failure to provide adequate workers, materials or equipment or to make sufficient progress, any of which endangered timely completion; abandonment of the work; repeated or "persistent[] disregard[]" of Skanska's instructions; or breach of any other subcontract provision.

Any disputes were to be resolved in accordance with Exhibit E. However, due to the importance of finishing the project, Skanska would make initial determinations concerning a dispute

while NFI had to continue working. Otherwise, disputes were to be further resolved as necessary depending on whether the dispute was between NFI and Skanska, or whether it also involved New Meadowlands.

Exhibit E contained a limitation provision that protected Skanska, New Meadowlands and other entities from a wide array of claims from NFI for consequential, special, indirect and punitive damages, or the like. Skanska was entitled to counsel fees in the event NFI submitted any frivolous claims or made adjustment requests lacking substantial merit or based on materially inaccurate assertions.

Exhibit E required all notices to be in writing. According to the integration clause,

> [t]he subcontract represents the entire integrated agreement between the parties with respect to the Project and supersedes all prior negotiations, proposals, correspondence, representations or agreements, whether written or oral, express or implied. This subcontract may only be amended or modified in a Change Order or other writing signed by both [Skanska and NFI]. The failure of [Skanska] to enforce at any time or for any period of time any one or more of the provisions of the subcontract shall not be construed as a waiver of any such provision or provisions.

The subcontract provided for payment in accordance with a form used by the American Association of Architects that linked amounts payable to the percentage of work completed. The form

allowed the parties to indicate whether there had been change orders above the subcontract price for the portion of work NFI claimed was completed and the amount of any resultant increases. The form also provided that for each change order, Skanska would retain ten percent of the amount being paid until completion of the subcontract. Skanska would prepare the form and submit it to NFI to indicate the percentage of work completed, but Skanska "had the last word," meaning it could decide how much to pay on each change order.

Disputes Between The Parties

A. The Dispute Over the Scope of the Work

There were many disputes between the parties during their relationship, but only a few are relevant to this appeal and cross-appeal. One dispute concerned whether the subcontract required fireproofing in the underside of Concourse One, specifically the area above the service level roof (the disputed area). The disputed area is an interior, mechanical space housing electrical and HVAC equipment. Immediately above the disputed area is a general public area where concession stands and bathrooms are located.

Skanska's project manager, Brian Furka, first became aware of NFI's concerns about the disputed area during a conversation with Popstefanov in February 2008, a month before NFI began its

fireproofing work. Popstefanov asserted that the subcontract did not require NFI to fireproof the disputed area because it did not appear on the cheater drawings as an area to be fireproofed. After that conversation, Furka prepared a "cost event" (CE) form to document the issue as a possible extra cost to NFI. Skanska subsequently concluded that it would not be an extra cost because the subcontract required this work. Skanska asserted that the cheater drawings were not part of the contract and the drawings listed in Exhibit B required fireproofing in the disputed area.

Thereafter, NFI performed the work in the disputed area under protest and maintained that the work was outside the subcontract. Popstefanov claimed that NFI submitted T&M tickets to Skanska's superintendents for this work, but they refused to accept them. On December 29, 2008, Popstefanov sent Skanska two invoices for this work: one for $92,894.88 for labor, equipment and material between March and August 2008, and the other for $261,226.75 for the actual fireproof spraying, for a total of $354,121.63. NFI also attached T&M tickets.

B. <u>The Dispute Over CE 560</u>

Another dispute concerned work required by CE560, which revised the scope of the work under the contract based on an architectural design change. CE560 required additional

fireproofing in other locations around the stadium that were not included in the subcontract. Skanska issued CE560 in February 2008, and ask NFI to respond.

On May 2, 2008, Furka notified NFI about its failure to respond and forwarded updated data and additional drawings to clarify the fireproofing work required by CE560. Furka directed NFI to submit a proposal within seven days, indicated that the work must be done on a T&M basis, and stated that NFI had to submit T&M tickets within twenty-four hours of the completing the work. Notwithstanding the T&M language in this notice, the words "lump sum" appear on a copy of the notice in the record, which Popstefanov claimed Furka had written.

NFI did not respond to Furka's May 2 notice until June 12, 2008, when it submitted a proposal to provide the labor, material and equipment, including lathing and fireproofing, for the worked required by CE560 for a lump sum payment of $180,000. NFI's proposal also contained several conditions, including that Skanska would provide the necessary light, heat and water; Skanska would pay for any necessary patching; and NFI would not be required to work unless the job was sufficiently ready for it to proceed in continuous operation without undue interference or delay.

Popstefanov testified that no one advised him that the lump

sum proposal was unacceptable or that the amount was too high, and, because Skanska directed him to do the work, he assumed that the parties had a deal for $180,000. Accordingly, NFI began the work. On October 13, 2008, NFI submitted a second proposal for a $259,026.79 lump sum payment.

On November 14, 2008, Skanska responded with a counter "estimate," and directed NFI to submit a revised proposal. Popstefanov testified he did not understand why Skanska made this counter estimate because he believed that Skanska had accepted his first proposal and by that point most of the work was already completed. He did not submit a revised proposal because Skanska never responded to NFI's first proposal, and did not keep T&M tickets because he assumed there would be a lump sum payment. He testified that NFI finished the work required by CE560 work while Skanska never objected, yet never paid, and never issued a change order as required by Exhibit E.

C. The Replacement of NFI

Because of deficiencies in NFI's work, on July 14, 2008, Skanska notified NFI that it was deleting certain work required by the subcontract and reassigning that work to another contractor, Fast Response. Skanska directed NFI to submit a credit for this work from the subcontract amount within seven days.

After receiving this notice, NFI agreed to cure any deficiencies. When those efforts failed, on August 7, 2008, Skanska notified NFI that it decided that Fast Response would complete work in certain areas and directed NFI to submit a credit for that work. On September 4, 2008, Skanska sent NFI a deficiency notice, and on October 21, 2008, Skanska sent NFI a notice of nonperformance. Skanska continued sending such notices until the end of the parties' relationship in January 2009.

The End Of The Parties' Relationship

As a result of ongoing disputes with NFI, by January 2009, Skanska began negotiating with Morell Brown to complete the remaining fireproofing work for the "inner" or lower bowl sections of the stadium for $299,000. Although a contract was prepared dated January 6, 2009, Skanska and Morrell Brown did not execute the contract until January 22, 2009.

In a January 7, 2009 letter to Popstefanov, Furka confirmed their earlier discussion whereby Popstefanov agreed to submit a change order within seven days to delete the work Skanska proposed to assign to Morrell Brown. Furka warned that if Skanska did not receive the change order, Skanska would deduct $147,715 from what it owed to NFI.

Furka testified that by this point, NFI was not capable of

maintaining the necessary work schedule. He explained that since the area assigned to Morrell Brown was the last area to be fireproofed, Skanska decided that "it would be beneficial to remove it from [NFI] and give it to another contractor in order to keep this area within the project schedule." Furka noted that NFI had been consistently behind, and yet had never sent a written objection outlining that other delays in the project were impacting its ability to stay on schedule. Moreover, notwithstanding the correspondence and numerous conversations among Furka, Skanska's foreman and Popstefanov, NFI's "lack of protection and lack of cleanup [were] a persistent problem . . . throughout the course of the project," and NFI had been tardy in submitting invoices. In fact, at times, Furka sent Popstefanov emails "begging to receive the invoice" because Skanska needed to keep timely track of expenditures for its own cash flow and cost projection concerns. Sometimes Furka threatened Popstefanov that if the invoices were not received, he would issue a zero cost change order, but at other times he had simply created the invoice himself in order to make sure NFI got paid for legitimate work while also ensuring that the matter got resolved.

On January 8, 2009, NFI notified Skanska that it was unable to complete the remaining work and would only continue on a T&M

basis. At trial, Popstefanov admitted that this notice was meant to convey to Skanska that NFI was no longer willing to proceed under the subcontract.

On January 9, 2009, Skanska sent NFI a default notice advising that it intended to terminate the contract and complete the fireproofing work. The notice stated as follows:

> Among the causes for this default notification, [NFI] has persistently failed to provide a sufficient workforce and make sufficient progress so as to not jeopardize the proper performance of the Work; it has consistently been in arrears with payments to the New Jersey Building Laborer's Benefit Funds and W.R. Grace and Co. [the fireproofing vendor]. NFI previously advised Skanska's officials that it had become unable to meet several of its current obligations and debts. On more than one occasion, [NFI] attempted to perform work under [the subcontract] without the correct union labor which is in direct conflict with the Project Labor Agreement. Further, NFI has failed to correct deficiencies in the spray fireproofing which were found to be non-compliant with the contract documents and manufacturer requirements.

Skanska gave NFI forty-eight hours to cure.

In its January 14, 2009 response,[2] NFI claimed it had completed 80% to 85% of the work required under the subcontract, incurred more than $600,000 in extra work, and was prepared to complete the remaining work. NFI requested a meeting to resolve

[2] The letter is dated January 14, 2008, but context makes clear that it was actually written in 2009.

the problems. Instead of meeting with NFI, in mid-January, Skanska advised NFI that it had reassigned the remaining work to other contractors.

On February 1, 2009, Skanska prepared a change order reflecting an increase of $53,873 to the subcontract amount for additional work, and a deduction of $147,715 for the work assigned to other contractors. The net effect was a negative change of $93,842 to the subcontract amount. There were also prior change orders totaling $160,476 in deductions, so that when Skanska combined the prior deductions with those reflected on the change order and subtracted from NFI's original subcontract amount of $1,174,815, Skanska arrived at net of $920,497. NFI never signed the change order, and as late as February 2009, Skanska had not received a proposal from NFI to cure.

It is difficult to discern from the record the extent of NFI's claimed damages. At one point during his testimony, Popstefanov claimed Skanska owed NFI $218,584, but that amount evidently did not include invoices totaling $78,750, may not have included the amount retained by Skanska pursuant to the subcontract, and may have described claims only up to a particular date. His testimony is difficult to understand, and the document he was referencing while testifying, which

evidently summarized NFI's damages, is not in the record on appeal. In its merits brief, NFI claims its damages are $861,883, plus the amount retained by Skanska. Popstefanov acknowledged, however, that Skanska was due certain credits.

Furka testified about the additional cost to complete the work. Morell Brown performed fireproofing work in certain areas included in the subcontract at a cost of $744,326.67. NFI argues on appeal that this area assigned to Morrell Brown was "de-scoped" from the subcontract before January 8, 2009, meaning that Skanska had removed that work from the scope of the work the subcontract required before NFI said it was unable to complete the remaining work and would only continue on a T&M basis. When added to the initial amount, the total paid to Morrell Brown was approximately $892,214. Furka also described additional fireproofing and other remedial work, such as removing over spray, repainting steel, and cleanup by Fast Response and others, made necessary because of NFI's deficient work.

The Trial Court's Decision

After a painstaking review of the parties' testimony and numerous documents in evidence, in a March 19, 2012 written opinion, Judge Steele made meticulous factual findings and legal conclusions. The judge "found flaws in the credibility of each

party" and concluded they each breached the subcontract. The judge also found that the cheater drawings were not part of the subcontract, and thus, NFI was not entitled to damages for work in the disputed area. The judge ultimately concluded that NFI was entitled to: $180,000 for CE560; $149,024 for an improper credit Skanska made against the amount owed to NFI; $90,728 for the amount retained by Skanksa; $78,750 for patching/repair work; and $77,872 for additional work done on a T&M basis. The judge concluded that Skanska was entitled to: $744,326.67 paid to Morell Brown; $163,937.60 paid to Fast Response; and $94,910 paid to Fine Painting. After making various adjustments, the judge awarded Skanska a net of $144,187.27.

Following NFI's motion and Skanska's cross-motion for reconsideration, in a May 25, 2012 written opinion, Judge Steele carefully analyzed and rejected the parties' respective arguments; however, she corrected her damages calculation and awarded Skanska a net of $67,080.12. In an August 1, 2012 written opinion, the judge granted Skanska's motion for counsel fees and costs and awarded Skanska $148,909.94.

On appeal, NFI argues that Judge Steele improperly gave Skanska credit for the work Skanska deleted from the subcontract and assigned to Morell Brown, Fast Response and Fine Painting. NFI also argues the judge erred in finding that it was not

entitled to payment for work done in the disputed area and that it repudiated the subcontract on January 8, 2009. NFI also challenges the amount of the counsel fee award. On cross-appeal, Skanska argues that Judge Steele erred in awarding NFI $180,000 for CE560 and $84,894 for certain additional work.

Our review of a trial court's fact-finding in a non-jury case is limited. Seidman v. Clifton Sav. Bank, S.L.A., 205 N.J. 150, 169 (2011). "'The general rule is that findings by the trial court are binding on appeal when supported by adequate, substantial, credible evidence. Deference is especially appropriate when the evidence is largely testimonial and involves questions of credibility.'" Ibid. (quoting Cesare v. Cesare, 154 N.J. 394, 411-12 (1998)). We should "not disturb the factual findings and legal conclusions of the trial judge unless we are convinced that they are so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice." Ibid. (internal quotation marks omitted). However, we owe no deference to a trial court's interpretation of the law, and review issues of law de novo. Mountain Hill, L.L.C. v. Twp. Comm. of Middletown, 403 N.J. Super. 146, 193 (App. Div. 2008), certif. denied, 199 N.J. 129 (2009). We also review mixed

questions of law and fact de novo. In re Malone, 381 N.J. Super. 344, 349 (App. Div. 2005).

We have considered the parties' respective arguments in light of the record and applicable legal principles and conclude they are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). We affirm substantially for the reasons expressed by Judge Steele in her three comprehensive and cogent written opinions. We are satisfied that the judge's factual findings and legal conclusions are amply supported by and consistent with the competent, relevant and reasonably credible evidence in the record and discern no reasons to disturb any of her rulings.

Affirmed.

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

CLERK OF THE APPELLATE DIVISION