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ELOY A. ROLE

Plaintiff /Appellant

vs.

SEABRAS SUPERMARKET

Defendant/Respondent

----------=X

SUPREME COURT OF NEW JERSEY
APPELLATE DIVISION

DOCKET No. A-1189-24

On Appeal From:
SUPERIOR COURT OF NEW JERSEY
ESSEX VICINAGE COURT
SAT BELLOW:
Avion M. Benjamin, J.S.C.
DOCKET NO< ESX-L- 553-23

BRIEF OF APPELLANT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

TABLE OF JUDGMENTS

ORDER dismissing Plaintiff's case with prejudice !T

Location :Courtroom at the Essex Vicinage Court

ORDER PREPARED BY THE COURT

ELOY A. ROLE

Plaintiff v. SEABRAS

SUPERMARKET

Defendant

HON. AVION M. BENJAMIN P.J

SUPERIOR COURT OF NEW JERSEY,
LAW DIVISION: ESSEX COUNTY

DOCKET NO: ESX-L-553-23

CIVIL ACTION

ORDER

This matter having been heard by the Court on November 18, 2024, and the Court having heard and considered the testimony of the parties, and for good cause shown;

IT IS on this 19th day of November 2024;

ORDERED that Plaintiffs Complaint is hereby **DISMISSED WITH PREJUDICE** for the reasons stated on the record on November 18, 2024, including lack of jurisdiction and failure to state a cause of action; and

IT IS FURTHER ORDERED that the parties shall serve a copy of this Order, in accordance with the New Jersey Rules of Court and within seven (7) days of its posting on eCourts, upon all parties, if any, not served electronically via eCourts or personally served in court.

Dated: November 19,2024

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Pg 1

PRELIMINARY STATEMENT

Plaintiff was injured as a result of an assault and battery that occurred at the defendant's facilities Seabras Supermarket at the men's room on or about September 21, 2022, when Plaintiff was trying to use the men's room.

The assault on Plaintiff was carried out by a defendant employee, a woman that threw on Plaintiff the cleaning elements impacting them on the Plaintiff's right knee, in addition the above mentioned employee summoned a defendant's security guard who retrieved Plaintiff from the urinal when Plaintiff was urinating.

Plaintiff reported the incident to the defendant's customer services asking them to summon the police but the police never showed up at the scene.

The Court dismissed the Plaintiff's Complaint with prejudice on two grounds plus the records adducing that the Court lacked subject matter jurisdiction on the incident and that the Plaintiff failed to state a claim upon relief could be granted both allegations elaborated further.

PROCEDURAL HISTORY

The case at hand had two presiding Judges as follows Judge Mayra Velez

Tarantino, J.S.C hereinafter called for brevity First Presiding Judge and abbreviated as "FPJ" and Avion Benjamin, J.S.C. hereinafter called for brevity Second Presiding judge and abbreviated as "SPJ".

Plaintiff filed a Complaint against defendant o January 15, 2023 (Pa2-Pa6).[1] Defendant filed an Answer to the Complaint on 2/02/22. (Pa7 - Pa13).

Defendant moved Plaintiff on the discovery stage through interrogatories and production of documents, Plaintiff complied with discovery. Defendant failed to comply with discovery and when Plaintiff moved the Court compelling discovery on Defendant on motion the Court denied

Plaintiff's application on Defendant's failure to comply with discovery. (Pa14 – Pa46).

It followed a Plaintiff application for a motion for disqualification of the FPJ which was denied and followed by the FPD's through a litany of unsupported excuses for not granting Plaintiff's motion.

The FPJ it is also credited with the denaturalization and mischaracterization of Plaintiff's case and its civil liabilities implied.

Pa= plaintiff/Appellant's Appendix

The above comprises original charges on defendant of assault and battery.

The FPJ branded Plaintiff's case as Plaintiff's "personal injury claim".

The Plaintiff's application for disqualification and the FPJ's decision disappeared from case's docket.

On the 18th of November Plaintiff was waiting from 9:00 a.m. till 4:30 p.m. when he is called into the chambers of the SPJ. Counsel for defendant made appearance at the court at 4:30 p.m.

The acting Judge addressed Plaintiff with the words" What are you looking for with this case?"

Plaintiff s answer was "Well, have you ever read the case or do you know what the case is all about. "Yes, I read it, give me second I will be back on you".

The SPF started reading the case on the record and most probably it was the first time that she had contact with the case.

SPJ came back to address Plaintiff with the words "Now....."Plaintiff cut SPJ short with the words "I have with me medical records....."

Plaintiff was addressed by the SPJ with the words " I have two more

cases and I'll take yours.

During trial the SPJ addressed Plaintiff again with the same question, (*See supra).*

Plaintiff's answer was " Civil liabilities in an assault and battery case in conjunction with intentional infliction of emotional distress". (1T)[2] 5 - 15 - 7

There were not pretrial proceedings nor pretrial conferences.

STATEMENT OF THE FACTS

The occurrence was on September 21, 2022 on or about 15:29:47 p.m. at the men's room of Seabras Supermarket Plaintiff an eighty years old male was attempted to use the men's room.

A woman designed as a Jane Doe One was at that time cleaning the men's room an Plaintiff left the scenario.

Plaintiff returned to the men's room ten minutes later and Jane Doe One was still cleaning the Room.

Plaintiff addressed Jane Doe One with the words, " Come one let me use the bathroom please".

(Plaintiff was in an urgent need to urinate at that precise moment).

[2] T = transcript of November 18, 2024

Jane Doe One started exiting the men's room and at the same time throwing onto the Plaintiff. (T)^5 17-7

The cleaning materials comprised of brooms, lampoons, driers, buckets etc, injuring the Plaintiff right knee.

After Jane Doe One left Plaintiff acceded the urinal and started urinating a security guard entered the men's room.

Designed as John Doe in the Complaint entered the men's room and retrieved Plaintiff from the urinal and ordered Plaintiff to exit immediately t the men's room while addressing Plaintiff in a broken English Language "you must respect". (T)^5 17-7

Plaintiff makes clear the due to pre-existent medical conditions he was in a hurry to urinate.

As it was depicted above Plaintiff was subjected to an egregious act of violence which was recorded on Defendant's video cameras

Plaintiff demanded at one of the defendant customer service attendants

designated Jane Doe to summons the police and the attendant agreed on that

but the police never appeared at the scene.

Plaintiff sought medical attention at the Clara Mass Hospital on 09/24/2022 and was told by the medical staff that he was with severe injuries in his right knee something that persist at the time[2]that this appeal is written.

As it was asserted in the Plaintiff's Complaint Plaintiff was suffered physical and emotional infliction of emotional distress by defendant, injuries and recurrence of trauma associated with the previous aggravated assault on him and will continue suffering the effects of the injuries Inflicted in the future.

LEGAL ARGUMENT

I. THE TRIAL COURT CREATED SUBJECT MATTER JURISDICTION IN THE CASE AT HAND WHEN PLAINTIFF WAS INJURED AS A RESULT OF BEING BATTERED AT THE DEFENDANT'S MEN'S ROOM BY A DEFENDANT'S EMPLOYEE ON 09/23/2022 IN THE STATE OF NEW JERSEY

The issue was raised at the Presiding Judge's Chambers

It appears to be that the trial court erred as a matter of law in raising the issue of subject matter jurisdiction.

It is well settled in Boyle v. G & K Tracking 37 N.J. 104 (1962) that New Jersey has established that if the injury occurs in New Jersey despite the location of the place of employment or any other factor that the jurisdiction could be found under the New jersey Act.

location of the place of employment or any other factor that the jurisdiction could be found under the New jersey Act.

The dicta in Stacy v. Greenberg , 9 N.J. 390 (1952 also determined that the State of New Jersey has no constrains in determining subject matter jurisdiction for someone injured within its borders.

Visiting Wilson v. Faull, 27 NJ 105 (1958) under the provisions of N.J.S.A. 34:15 – 40 it is seen that subject matter jurisdiction like in the case at bar is created since Plaintiff Role was injured in an intentional tort in the defendant facilities while making shopping and trying to use defendant's men's room.

Compensation Act (R. S. 34:15-1 *et seq.*) The Court of Errors and Appeals reaffirming the holding and reasoning of Rogge. See 87 N.J.L., at p 689. Although neither Rogge nor Danid Heiser discussed any constitutional issues of power, it is now clear that New Jersey interest (Subject Matter Jurisdiction) by virtue of the fact of the workman was injured within its borders is sufficient to empower the application of Workmen's Compensation Act despite the fact that the contract of hire was execute in another state between residents of that state.

n pacific Employers Ins. Co. v. Accident Industrial Commission, 306 U.S. 493, 59 S. Ct. 629, L. Ed. 940 (1939). And again the place of the injure glued

II THE TRIAL COURT FAILED IN GIVING SPECIFICS REASONS ON WHICH IT SUPPORTED ITS LACK OF SUBJECT MATTER JURISDICTION THUS CONVERTING ITS RULING IN A GRUESOME AND BORDERLERSS ABUSE OF DISCRETION.

The issue was raised at the Presiding Judge's Chambers.

Visiting The Nature USA Corporation and Krieger Global Limited v. Zionggang Wang individually and as a former officer and director of the Nature USA Corporation A & E America Inc. Cabinet Depot Evergreen Cabinetry and Zen Cabinetry LLC Docket A-3125-20

The Court's dicta follows "On February 21 202, defendants moved to vacate the July 2018 default judgment as void under Rule 4:50-1(d) because neither Nature nor Krieger was incorporated or authorized to do business in New Jersey when plaintiffs commenced the underlying action in July 2017, thus neither plaintiff had capacity to bring the claim, and the court lacked subject matter jurisdiction to decide it. Plaintiff opposed asserting various facts to

show that Krieger is a foreign company who has no presence or business in New Jersey and that Nature was reinstated as a New Jersey Corporation as of April 2021. Nature Corporate charter was revoked on December 16, 2016, for failure to file two consecutive annual reports with the New Jersey State Treasurer. Krieger was the majority shareholder of Nature, but a foreign Corporation. Krieger is not registered to do business in New Jersey, but plaintiff asserts that Krieger was not required to register to file a

State Treasurer. Krieger was the majority shareholder of Nature, but a foreign Corporation. Krieger is not registered to do business in New Jersey, but plaintiff asserts that Krieger was not required to register to file a complaint. Plaintiff blame Wang for his failure to

maintain Nature's corporate status in 2016, but Nature did not reinstate its corporate charter until April 1, 2021.

On May 25, 2021, the court denied defendants' motion to dismiss the action and vacate the judgment for lack of subject matter jurisdiction with only the statement:

This motion is essentially a motion for reconsideration of a final offer that is already [three] out of time. Notwithstanding R. 4:49-2, per R. 4:50-2, the motion has to be made within a reasonable time, [three] is not reasonable.

Defendants appealed and argued that the trial court erred in denying their motion to vacate because its state reasons were not sufficient under Rule 1:7-4(a) and because the court did not consider that the subject matter jurisdiction cannot be waived and can be raised at any time. We agree.

We review the novo whether a court has subject matter jurisdiction as a question of law, Beaver v. Magellan health Servs. , Inc., 443 N.J. Super. 430, 6 437 – 38. (App. Div.2013)but we review the trial court's decision in a motion to vacate default judgment for abuse of discretion and account it

"substantial deference [.]" Deutsche Bank Nat'l Tr. Co. v. Russo, 429 N.J. Super 91, 98 (App). Div. (2012) (quoting US Bank Nat'l Ass'n v. Guillaume, 209 N.J. 449, 467 (2012)) see also Hous. Auth. of Morristown v. Littlee, 135 N.J. 274, 283 (1994).

Carrington Mortg. Servs., LLC v. Moore, 464 N.J. Super. 59, 67 (app. Div. (2020)

We will "find[] an abuse of a decision when [was] made without a rational explanation (like in the case at hand), inexplicable departs from established policies, or rested in impermissible basis . Guillaume, 209 N.J. at 467- 468 (quoting) Iliadis v. Wall - Mart Stores, Inc. 191 N.J. 88, 123 (2007).

"When a trial court issues reasons for its decisions, it 'must state clearly [its] factual findings and correlate them with relevant legal conclusions, so that parties an the appellate courts [are] informed of rationale underlying th[ose] conclusion[s]. '''Avelino Catabran v. Catabran, 445 N.J. Super. 574, 595-95 (app. Div. (2016) (alterations in original) (quoting Monte v. Monte, 212N.J. Super. 557, 565 (App. Div. 1986). Without such reasons, a reviewing court does not know whether the judge's decision (like in the case at hand) is supported by the facts and law or is the product of arbitrary action resting on an impermissible basis. See Monte 212 N.J. Super. 564, 657.

decision was an abuse of discretion or an incorrect conclusion of law. See in re Tr. Agreement dated Dec. 20 1961, ex rel. Johnson & Hoffman, Lienhard & Perry, 399 N.J. Super. 237, 253 - 254 (App. Div. 2006), aff'd, 194 N.J. 276 (2008).

Thus, we are constrained to vacate the May 2021 order and remand for such statement of reasons on the reasonable time as it relates to the motion to vacate for lack of subject matter jurisdiction. (*emphasis added two times*).

III PLAINTIFF PROVED THAT THE COURT HAD SUBJECT MATTER JURISDITION IN ADDITION THE COURT FAILED TO MAKE A SHOWING OF FACTUAL OR FACIAL ATTACK TO THE COURT'S SUBJECT MATTER JURISDICTIO IN THE PLAINTIFF'S COMPLAINT
The issue was not raised

"A facial attack contest the sufficiency of the complaint because of defects in its face." whereas a factual attack ' asserts that the factual underpinning of the basis for jurisdiction fail to comport with the jurisdictional prerequisites.'' Halahi v. Fed. Nat'l Mortg. Ass'n, 2018WL 706483, at *2(D.N.J. Feb. 5, 2018) (internal citations omitted). In a factual attack, "the court may consider and weight evidence outside the pleadings to determine if it has jurisdiction." Gould Elecs. Inc. v. United States, 220 F.3d 169, 178 (3rd Cir. 2000), holding modified by Simon v. United States, 341 F.3d 193 (3d Cir. 2003.

(3rd Cir. 2000), holding modified by Simon v. United States, 341 F.3d 193 (3d Cir. 2003.

Visiting Jamar Demby v. State of New Jersey the Court's dicta follows " Regarding Point II, we agree with plaintiff that ordinarily, (motion to dismiss are granted without prejudice) something that did not happen in the case at bar) Smith v. SBC Communs, Inc. 178 N.J. 265, 282 (2004). Moreover, it is well established that the trial court accepts the factual allegations of a complaint as true, and "searches the complaint in depth and with liberality to ascertain whether a the fundaments of a cause of action may be gleaned even from an obscure statement of claim .....

Printimg Mart - Morristown, 116 N.J. at 746 (quoting DiCristofaro v. Laurel Gr Memorial Park, 43 N.J. Super. 244, 252 (App. Div. 1957)). When reviewing a trial court motion to dismiss under Rule 4:6-2(e), the test to determine the adequacy of the pleading is whether the facts as presented in the complaint suggest a cause of action. Printing Mart-Morristown, 116 N.J. at 746 citing (citing Velanttzas v. Colgate Palmolive Co., 109 N.J. 189, 192 (1998).

Stated differently appellate courts access the legal sufficiency of the claim. "A complaint should be dismissed for failure to state a claim pursuant to Rule 4:6-2(e) only if 'the factual allegations

594, 597 (App. Div. 2010) (quoting Rieder v. State Dep't of Transp. 221 N.J. Super. 547, 552 (App. Div. (1987)). See also Sickles v. Cabot Corp., 379 N.J. Super 100, 106 (app. Div. (2005).

But when the complaint fails to set forth " [t]he traditional articulation" of the elements of a cause of action, no additional facts could be plead, or further proceedings will amount to a "mere fishing expedition." dismissal with is entirely appropriate. Nostrame v. Santiago, 213 N.J. 109, 128 (2013).

The crux on the Seabras Supermarket's Court is t hat when he Plaintiff was convened at the SPJ's Chambers, (*See supra*) together with counsel for defendant Plaintiff offered to SPF his medical records produced by the battery that Plaintiff suffered at the defendant's men's room Plaintiff was cut short by SPJ with the excuse a "I have two more cases and we'll go to trial,"

thus the SPJ refused to inspect Plaintiff's medical records at the Clara Mass Hospital and NYU Langone Health Department of Orthopedics.

Needless to state by Plaintiff that Plaintiff's medical records are/were conclusive and substantial evidence sustaining what Plaintiff pleaded in his Complaint.

The above in one side.

On the other side discovery was allowed by the FPJ only on the Plaintiff.

When Plaintiff moved defendants on production of documents and interrogatories the FPJ adduced that discovery on defendant was not necessary and denied Plaintiff's motion to compel discovery on defendant. (*See supra).* *(emphasis added).*

In reviewing a motion to dismiss for failure to state a claim upon which relief can be granted "courts accept all factual allegations as true, construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff must be entitled to relief." Fowler v UPMC Shadyside, 578 Fed 203, 210 (3rd Cir. 2009) internal quotations marks and citations omitted). While the complaint is not compelled to contain factual allegations, "a plaintiff's obligation to contain the 'grounds' of his entitle[ment] to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do, " Bell Atl. Corrp. v. Twombly, 550 U.S. 544, 555 (2007) (citation omitted). Thus, to survive a motion to dismiss, the complaint must contain sufficient factual allegations to rise a plaintiff's right to relief above the speculative level, so that a claim is "plausible on its face. " *Id.* At 570, Phillipos v. City of Allegeny, 515 F3d. 224, 231 #d Cir.2008). "A claim has factual plausibility when the plaintiff pleads factual consent that allows the court to draw the reasonable inference that the defendant is

liable for the misconduct alleged." Ascroft v. Iqbal, 556 U.S. 662, 678 (2009). (Role v. Seabra Supertmarket ESX L 553 23).

To determine whether a plaintiff has met the facial plausibility standard mandated by Twombly and Iqbal, Courts within the 3d Cir, engaged in a three-step progression. "Santiago v. Warminster Twp. 629 F./3d 121, 130 (3d Cir. 2010). First the court must "outline the elementa plaintiff must plead to state a claim for relief . " Bistrian v Levi, 696 F. ed 352, 365 (3d Cir. 2012). Next the court "peel[s] away those allegations that are no more than that conclusions and thus not entitled to the assumption of trust. *Id.* Finally, where "there are well pleaded factual allegations, the court should assume their veracity and determine whether their plausibility give rise to an entitlement to relief "Iqbal, 556 U.S. at 679.

In the case at hand Plaintiff's allegations at minimum "suggest" viable claims and should survive the Court's motion to dismiss. In addition Plaintiff's allegations established the justifiability of the question before the Court.

On the pother hand, Plaintiff Pleaded with luxury of details the occurrence that evolved at the Defendant's facility when tried unsuccessfully to have access and use the men's room leaving no doubts that hr was assaulted and battered

IV. THE COURT OPENLY ENGAGED IN THE PLAAINTIFF'S DEPRIVATION OF RIGHTS UNDER THE COLOR LAW AND CONSPIRACY ABOUT RIGHTS

The isue not raised

The Court strolled leisurely the territory of 18 U.S.C. 242 (deprivation of rights under the color law, and 18 U.S.C. Section 241 Conspiracy About Rights besides of its failure of placing words in the Plaintiff's mouth for the record when it convened Plaintiff and counsel for defendant for a meeting in the SPJ's Chambers, (*See supra).* and FPJ's proceedings which comprises tampering of evidence in the case's docket and obstruction of justice.

Following an already failed attempt made by the FPJ of changing the nature of the claim namely civil liabilities in a Plaintiff assault and battery at the defendant's facilities men's bath room and mischaracterizing it by Plaintiff' Personal Injury Claim.

The dangling question is (quotation from SPJ's questioning at the SPJ's Chambers:

"What are you expecting from this lawsuit?" that cast no doubt that the SPJ knew about Plaintiff's case five or ten minutes before trial. The SPJ's requested from Plaintiff time to visit the record for the first time, given the fact that when Plaintiff foresaw that the SPJ knew nothing about the Plaintiff's case, (SPJ's body language denounced the facts in between.

What follows gives this Honorable Court guidance in accessing and weighting the FPJ and SPF's proceedings and obscure conduct in the case at bar.

Plaintiff's purpose is only again for guidance since Plaintiff knows without any doubts whatsoever where in the US' Judiciary ventilate and move the issue presented.

Visiting the case United States v. Price, 383 U.S. 788 the dicta of the Court follows "Appellees are three Mississippi law enforcements officials and 15 private individuals who are alleged to have conspired to deprive three individuals under rights under the Fourteen Amendments. Thalleged conspiracy involved releasing the victims from jail at night, intercepting, assaulting and killing them, and disposing their bodies. Its purpose was to "punish" the victims summarily. Two indictments were returned. One charges all appellees with a conspiracy under 18 U.S.C. § 371 to violate 18 U.S.C. 242 which made it misdemeanor willfully and under the color law to subject any person to the deprivation of any right secured and protected by the Constitution (*mirroring Plaintiff's Role's case. (emphasis added}*

That Plaintiff's Case lacks jurisdiction in the Lower Court is in its face unpersuasive.

The Citation mention to punish and the dangling question in the Plaintiff's Role case was/is:

Which were the obscure motivations that led the SPJ to state that the court lacked jurisdiction in the case at hand in addition to the obscure conduct of the FPJ?

That question for sure would have an answer in the proper US' Judiciary.

CONCLUSION

Plaintiff respectfully asks that this Court reverse 6the Trial Court's order granting defendant's motion to dismiss Plaintiff's Complaint with prejudice, hold that the trial court has/had subject mater jurisdiction and the Plaintiff's pleaded with specificity and plausibility assault and battery in which Plaintiff was a victim of defendant's employees.

Plaintiff, again asks this Honorable Court remand the case for trial by jury so that Plaintiff could be compensated for his loses

Respectfully submitted

ELOY A. ROLE

Dated: 05/05/2025

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1189-24

ELOY A. ROLE,

Plaintiff-Appellant,

v.

SEABRA SUPERMARKETS,
Defendants-Respondents.

ON APPEAL FROM

SUPERIOR COURT OF NEW JERSEY
ESSEX VICINAGE COURT
Avion M. Benjamin, J.S.C.
SAT BELOW
DOCKET NO. ESX-L-553-23

BRIEF OF RESPONDENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

PRELIMINARY STATEMENT

Plaintiff/Appellant filed a complaint in the Superior Court of New Jersey, Law Division, Essex County alleging that the Defendant/Respondent, Seabra Supermarket and/or their employees allegedly committed a Second degrees aggravated assault against him. On November 18, 2024, the Honorable Avion M. Benjamin, P.J.C.V dismissed the complaint with prejudice regarding the reasons stated on the record, including lack of jurisdiction and failure to state the cause of action. The Plaintiff/Appellant then filed a Notice of Appeal and a Civil Case Information Statement on December 17th, 2024.

PROCEDURAL HISTORY

The Plaintiff/Appellant filed a complaint in the Superior Court of New Jersey, Law Division, Essex County on or about January 6th, 2023 (Pa2a–Pa6a)[1]. The complaint alleged that the Defendant/Respondent, Seabra Supermarket and/or their employees allegedly committed a Second degrees aggravated assault upon his person in violation of *N.J.S.A 2C:12-1(b)* (Pa2a–Pa6a)[2]. The Defendant/Respondent filed an answer to the

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[1] Pa= Plaintiff/Appellant Complaint
[2] Pa= Plaintiff/Appellant Complaint

complaint on February 6th, 2024 (Pa7a-Pa13a)[3]. The matter was arbitrated, and the arbitrator found no cause of action, as well as no proof of injuries (Da1a)[4]. The Plaintiff/Appellant submitted a request for a Trial de Novo on August 16th, 2024 (Da2a)[5]. The matter was listed for Trial on November 18th ,2024 at which time it was dismissed by the Honorable Avion M. Benjamin, P.J.C.V for lack of subject matter jurisdiction and other reasons stated on the record. The Plaintiff/Appellant filed a Notice of Appeal and Civil Case Information Statement on December 17th, 2024 (Pa47a-Pa53a)[6].

STATEMENT OF FACTS

The Plaintiff/Appellant alleges that on September 21st, 2022, at approximately 3:30pm he was assaulted in the men's bathroom. Defendant/Respondent, Seabra Supermarket, does not have any record of an assault in the men's bathroom or anywhere else in the store on September 21st, 2022, at 3:30pm or at any other time on September 21st, 2022.

Defendant/Respondent first found out that the Plaintiff/Appellant was alleging that he had been assaulted when Defendant/Respondent was

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[3] Da= Defendant/Respondent Answer to Complaint
[4] Da= Defendant/Respondent Arbitration Award
[5] Pa= Plaintiff/Appellant Request for Trial de Novo
[6] Pa= Plaintiff/Appellant Complaint Notice of Appeal and Civil Case Information Statement

served with the complaint. The complaint alleged that the Defendant/Respondent, Seabra Supermarket and/or their employees committed a second-degree aggravated assault upon the Plaintiff/Appellant in violation of *N.J.S.A 2C:12-16(b)* (Pa2a-Pa6a)[7]. The Defendant/Respondent filed an answer to the complaint (Pa7a-Pa13a) [8], the matter was arbitrated, and the Plaintiff/Appellant was found to have no cause of action, as well as no proof of injuries (Da1a) [9]. The Plaintiff/Appellant submitted a request for a Trial de Novo (Da2a)[10]. The matter proceeded to trial where it was dismissed by the Honorable Avion M. Benjamin P.J.C.V for lack of subject matter jurisdiction (Pa1a).[11]

LEGAL ARGUMENT

I. THE COURT WAS CORRECT IN DISMISSING THE COMPLAINT WITH PREJUDICE DUE TO LACK OF SUBMIT MATTER JURISDCITION.

The Plaintiff/Appellant filed his complaint for Second Degree Aggravated Assault pursuant to *N.J.S.A 2C:12-1(b)* in the Superior Court of New Jersey, Civil Part, Law Division, Essex County (Pa2a-Pa6a)[12]. The Appellant's answer to interrogatories No. 22 which requested, "If you claim

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[7] Pa= Plaintiff/Appellant Complaint
[8] Da= Defendant/Respondent Answer to Complaint
[9] Da= Defendant/Respondent Arbitration Award
[10] Pa= Plaintiff/Appellant Request for Trial de Novo
[11] Pa= Plaintiff/Appellant Order
[12] Pa= Plaintiff/Appellant Complaint

that a violation of any statue, rule, regulation, or ordinance is a factor in this litigation, state the exact title and section." The Plaintiff/Appellant responded, "Plaintiff's claims relate only to Civil Second-Degree Aggravated Assault on his person by Defendant." (Da3a-Da6a)[13].

The Plaintiff in his complaint indicates that his cause of action is for "Aggravated Assault". The Appellant alleges in his complaint that Defendant's "intentionally assaulted and physically battered Plaintiff."

Under the *New Jersey Constitution, Article VI §3*, and *N.J.S.A 2B:2-1*, the Superior Court is divided into divisions for the purpose of jurisdiction. The Civil Part of the Law Division has jurisdiction over civil matters, not criminal prosecutions. Plaintiff/Appellant a private individual, cannot initiate a criminal prosecution through a civil complaint. *State V. Storm*, 141 N.J. 245 (1995) held that only the State may prosecute criminal matters.

On November 18th, 2024, the Honorable Avion M. Benjamin, P.J.C.V. properly dismissed Plaintiff/Appellants' complaint with prejudice for lack of jurisdiction and failure to state a cause of action (Pa1a)[14]. The judge stated in her decision, "your complaint - - that you filed against defendant is criminal in nature" 1TP8 L10-11. The judge continued "So there's no jurisdiction for this court to grant you the relief that you're seeking based upon the language and statute that you rely upon in the complaint itself." 1TP8 L15-18.

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[13] Da= interrogatories propounded by Defendant/Respondent
[14] Plaintiff/Appellant Order

Subject matter jurisdiction refers to the courts' power to hear and determine cases of the general class to which the proceedings in question belong. *Peper v. Princeton University Board of Trustees*, 77 N.J. 55,65 (1978). Jurisdiction is from the Constitution or statute *State v. Osborn*, 32 N.J. 117,122 (1960).

Under the New Jersey Constitution, criminal offenses are prosecuted by the State, through the Office of the County Prosecutor, and adjudicated in the Criminal Division of the Superior Court or in the Municipal Court, depending on the grade of the offense N.J. Constitution VI, § 3; Rule 3:1-1. The Civil Division is designated to hear civil disputes between private parties, Rule 4:1-1 et seq.

Assault is defined as a criminal offense under the *N.J.S.A 2C:12-1*, and prosecution may only be initiated by the State in a criminal court.

CONCLUSION

For Forgoing reasons, it is respectfully submitted that the Honorable Avion M. Benjamin P.J.C.V was correct in dismissing Plaintiff's complaint with Prejudice for lack of subject matter jurisdiction and failure to state a cause of action. Accordingly, the Order executed by Judge Benjamin P.J.C.V dismissing the complaint with prejudice must be affirmed.

Respectfully submitted

Carlos A. Monteiro, Esq.

Dated: July 16th,2025

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1189-24

ELOY A. ROLE
Plaintiff-Appellant

v.

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Defendant- Respondent

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REPLY BRIEF OF APPELLANT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

STATUTES AND REGULATIONS

PRELIMINARY STATEMENT

In this Appellant's Reply Brief the actors are mentioned as follows:

Appellant Eloy A. Role: Role

First presiding judge: FPJ

Second presiding judge: SPJ

Counsel for Appellee: Monteiro

Role filed initially a complaint at the Special Civil Part that was later ransferred to the Law Division by Court's Order.

Being the case at the Law Division Role filed a Motion on January 13, 2023, The Motion has/had an Exhibit A that stated "PROPOSED SUPPLEMENTAL PLEADINGS"

Monteiro answered the aforesaid motion as a Plaintiff's Complaint.

Neither the FPJ nor the SPJ never granted or denied Appellant's Motion.

On November 18, 2024, the SPJ in her Chambers was faced for the first time with the aforesaid motion mentioned above where in between there was a meeting among Role Monteiro and the SPJ, where there was not court reporter.

It follows a trial at the Court's Courtroom.

Needles to state the SPJ read the motion and the title "PROPOSED

SUPPLEMENTAL PLEADINGS" for the first time and moved forward that is to say the SPJ was fully aware of what she was doing and placing reliance that her proceeding with the Plaintiff *pro-se* would go through.

They did go through and placed the SPJ in the spot light.

And needles to state by Appellant that the SPJ decided a case where Monteiro was not served with the summons because the Appellant's "PROPOSED SUPPLEMENTAL PLEADINGS" was not granted.

Thereafter, Appellant dares to state that the decision by the SPJ was/not moot, was not void in fact and in law and could be baptized as the product of Plaintiff's *pro-se* sub estimation, disrespect, bias and prejudice and petulance of the SPS.

The FPJ did not escape Appellant's recitals and proceedings mentioned above with the addition that she attempted without success to convert a civil liabilities in a second degree aggravated assault in an personal accident and let Monteiro to bypass discovery by Plaintiff on Defendant.

PROCEDURAL HISTORY

Appellant's filing of his case of civil liabilities in an occurrence of second degree aggravated assault at the Special Civil Part of the Essex Vicinage Court shall be considered as an error that could be branded

Appellant's excusable neglect.

There was an arbitration in between that was a fabrication Appellee-Arbitrator.

Plaintiff in the arbitration hearing was requested medical records of the second degree aggravated assault and he had no time to produce them due to the fact that the arbitrator cut plaintiff short an terminated the hearing.

But at the SPJ"s Chambers on 11/18/2024 Plaintiff offered the medical records to the SPJ who refused to review them. (See T1)

STATEMENT OF THE CASE

Appellee's counsel/Monteiro and the SPJ conception that Appellant case was a criminal case filed at the Special Civil Part and the Law Division made a showing that Monteiuro does not have command of the writing English Language and the SPJ's conception are/were figments of her imagination.

The first page of the Appellant's "PROPOSED SUPPLEMENTAL PLEADINGS" at the caption reads " CIVIL ACTION COMPLAINT" meaning that even that Appellant could have mentioned the NJ Statuette 2C Appellant carved out in his pleadings about civil liabilities in a second degree aggravated assault emphasizing in that denomination. (See 1T)

The above equates the O. J. Simpson's case in connection with civil liabilities.

LEGAL ARGUMENT

APPELLEE LACK OF LEGAL RESOURCES FORCED HIM TO THE CLICHÉ OF LACK OF SUBJECT MATTER JURISDICTION THUS CEMENTING THE LACK OF SUBSTANCE IN HIS RESPONDENT'S BRIEF.

Visiting the dicta in *Eddins v. Alabama* 160 So 3d 18 (Ala. Civ. App. 2014, *a persuasive case* asserted that courts should treat pleadings according to their substance rather than their caption.

"The verified petition alleged a September 2010 laboratory test indicated Eddins had diabetes. Yet he was not being treated for that disease, putting him at "risk of going blind, losing a limb, going into diabetic coma, or dying." Among the relief requested, Eddins asked state officials to "provide him with necessary or appropriate medical care to treat his diabetes."

The trial court dismissed the action because the remedy he sought was not available through a Rule 32 petition, which is the mechanism to challenge a criminal conviction or sentence. Eddins appealed to the Alabama Court of Criminal Appeals, which transferred the case to the Court of Civil Appeals.

That appellate court said that while Eddins' appellate brief was "not a model of clarity," it was clear he alleged his constitutional rights were being violated by the improper withholding of medical care. The court noted that "[i]t has long been the law that nomenclature" – the name or term used – "is not the determining factor regarding the nature of the party's pleadings or motions."

Eddins, the Court of Civil Appeals held, had stated a claim for which relief could be granted; thus, it was error for the trial court to dismiss his petition. While expressing no opinion as to the substantive merits of Eddins' claim, the appellate court reversed and remanded the case for further proceedings"

The above mirroring Appellant's case.

Monteiro was unable to differentiate reality from fiction even though he thought that the SPJ's ruling on the premise of lack of subject matter

jurisdiction could spare him of the dangers of a legal Waterloo. (emphasis added)

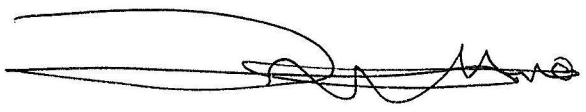
CONCLUSION

Appellee's Brief of Respondent ought to be dismissed on the grounds of lack of substance and a legal charade on the New Jersey Judiciary and Apperllant.

Appellee did not answer Plaintiff's Complaint because it never existed given the fact that no process server faced Monteiro with the Plaintiff's Summons. Monteiro an attorney at law knew beforehand that the Role's case was a fallacy and moved forward posing as a naïve and unsophisticated defense counsel dancing with the SPJ's music of lack of subject matter jurisdiction.

This reasoning (above) bounces when the SPJ enter in scene since her at his Chambers read the Plaintiff's Motion and decided to rule it in the Plaintiff's Proposed Supplemental Pleading converting them into a Plaintiff's pseudo-Complaint bringing it to life and dismissing it with prejudice and the like.

Respectfully submitted



ELOY A> ROLE

Dated: July 22, 2025