
**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION**



Docket No. A-001668-24

UNIFUND CCR LLC,	:	CIVIL ACTION
AAO CAPITAL ONE BANK (USA),	:	
N.A.,	:	ON APPEAL FROM THE FINAL
	:	JUDGMENT OF THE SUPERIOR
Plaintiff-Respondent,	:	COURT OF NEW JERSEY
	:	LAW DIVISION: SPECIAL CIVIL
v.	:	PART, ESSEX COUNTY
	:	
CASSANDRA VALENTINE,	:	Trial Court Docket No.
	:	ESX-DC-19766-19
Defendant-Appellant.	:	
	:	Sat Below:
	:	HON. MAYRA V. TARANTINO, J.S.C.
	:	
	:	DATE: September 24, 2025
	:	

BRIEF ON BEHALF OF DEFENDANT-APPELLANT

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Order Denying Defendant’s Motion to Vacate Default Judgment
filed December 24, 2024 Da32

PRELIMINARY STATEMENT

This appeal arises from the trial court's Order (Da32) denying Defendant-Appellant Cassandra Valentine's Motion to Vacate Default Judgment pursuant to *R. 4:50-1(d)* and *R. 4:50-1(f)*.

Non-party Distressed Asset Portfolio III, LLC ("DAP") concealed their unlawful consumer loan business and enforced void debts through their licensed affiliate, Plaintiff-Respondent Unifund CCR, LLC ("Unifund"), while hiding their unlicensed collection activity from New Jersey courts and consumers. They do so in order to avoid obtaining and complying with the licensure requirements under the New Jersey Consumer Finance Licensing Act ("NJCFLA"), N.J.S.A. 17:11C-1 to -49.

Here, DAP retained title and ownership of Valentine's alleged account but placed the account with Unifund for "collection purposes only" in order to conceal DAP's unlicensed status and the effects of DAP's violations of the NJCFLA. Valentine was not aware of this scheme but later learned of the illegal activity through her attorneys. She then moved to vacate the default judgment, but the trial court denied her relief.

In denying Valentine's Motion, the trial court relied upon *R. 4:50-2* to determine that Valentine's Motion was untimely as the Motion was filed more than one year after the default judgment had been entered. However, *R. 4:50-2*

makes clear that the one-year requirement applies only to motions brought under *R. 4:50-1(a)*, *R. 4:50-1(b)*, and *R. 4:50-1(c)*. The one-year requirement does not apply to motions brought under *R. 4:50-1(d)* or *R. 4:50-1(f)*—the subsections under which Valentine brought her Motion. Thus, the trial court’s reasoning departs from clearly established Court Rules and related jurisprudence. Accordingly, the trial court Order denying Valentine’s Motion to Vacate Default Judgment should be reversed and the matter remanded for further proceedings.

PROCEDURAL HISTORY

Unifund initiated this action on November 15, 2019, by filing its collection Complaint against Valentine, demanding a judgment in the amount of \$2844.94, together with costs of suit. (Da1 -Da2). The Summons Mailed Notice entered on November 16, 2019, indicates that the Summons and Complaint were mailed on November 19, 2019. (Da4).

Unifund requested entry of default judgment on February 21, 2019; default judgment was entered against Valentine on March 3, 2019. (Da5).

Valentine filed her to Motion to Vacate Default Judgment and to Vacate Execution of her Goods and Chattels on April 24, 2024. (Da18).

On December 24, 2024, the trial court entered an Order denying Valentine’s Motion. (Da32).

On February 7, 2025, Valentine timely filed her Notice of Appeal.
(Da34).

STATEMENT OF FACTS

Sometime prior to the initiation of this action, DAP allegedly purchased a pool of defaulted consumer debts, including Valentine’s Capital One Bank, N.A. credit account, for pennies on the dollar; DAP then assigned the account to Unifund “for collection purposes only,” to “conduct[] litigation in [Unifund’s] name” while “[DAP] retain[s] title and ownership of such Receivables.” *See* Exhibit 1 annexed to the Stevens Cert. at p. 4 (Da30); *see also* Certification of Assignment ¶¶ 1-3 (Da5).

However, at all times relevant to this action, neither DAP nor Unifund had the legal right or authority to attempt collection of Valentine’s alleged debt. When DAP acquired Valentine’s alleged account, DAP was not licensed as a consumer lender as required by N.J.S.A. 17:11C-3(a). *See* DAP’s License Verification from the New Jersey Department of Banking and Insurance Licensing Services Bureau, annexed to the Certification of Mark Jensen as Exhibit A (Da22). N.J.S.A. 17:11C-33(b) of the NJCFLA determines that a consumer credit contract acquired in violation of the NJCFLA’s licensure requirements “shall be void,” and there “shall [be] no right to collect or receive any principal, interest or charges.” Thus, when DAP purchased the contract

governing Valentine's alleged account, the contract became void, as per the black letter language of N.J.S.A. 17:11C-33(b). As a result, the default judgment obtained by Unifund on the void debt is also necessarily void.

Unifund filed a collection lawsuit against Valentine in its own name, concealing that DAP retained title and ownership of the debt, and thereafter obtained a default judgment.

LEGAL ARGUMENT

THE STANDARD OF REVIEW (Raised Below¹)

R. 4:50-1 is “designed to reconcile the strong interests in finality of judgments and judicial efficiency with the equitable notion that courts should have authority to avoid an unjust result in any given case.” *Mancini v. EDS ex rel. New Jersey Auto. Full Ins. Underwriting Ass'n*, 132 N.J. 330, 334 (1993) (quoting *Baumann v. Marinaro*, 95 N.J. 380, 392 (1984) (internal quotation marks omitted)).

The standard is abuse of discretion. *LVNV Funding, LLC v. DeAngelo*, 464 N.J. Super. 103, 108 (App. Div. 2020) (quoting *Rova Farms Resort, Inc. v.*

¹ Valentine raised the applicable standard under R. 4:50-1 in her Motion Brief below; however, with respect to the standard of review, Valentine's Brief does not meet any of the criteria under R. 2:6-1(a)(2) and has therefore been excluded from Defendant-Appellant's Appendix.

Inv'rs Ins. Co., 65 N.J. 474, 484 (1974)).

With respect to the trial court's factual findings, the 'abuse of discretion' standard "defies precise definition," though it can be manifested when a decision is "made without a rational explanation" or "inexplicably depart[s] from established policies, or rest[s] on an impermissible basis." *Flagg v. Essex Cty. Prosecutor*, 171 N.J. 561, 571 (2002) (quoting *Achacoso-Sanchez v. Immigration and Naturalization Service*, 779 F.2d 1260, 1265 (7th Cir.1985) (internal quotation marks omitted)); see also *Borough of Englewood Cliffs v. Trautner*, 478 N.J. Super. 426, 437 (App. Div. 2024). Abuse of discretion may also be found "when the exercise of discretion was 'manifestly unjust' under the circumstances." *Newark Morning Ledger Co. v. N.J. Sports & Exposition Auth.*, 423 N.J. Super. 140, 174 (App. Div. 2011) (quoting *Union Cnty. Improvement Auth. v. Artaki, LLC*, 392 N.J. Super. 141, 149 App. Div. 2007)). "In other words, a functional approach to abuse of discretion examines whether there are good reasons for an appellate court to defer to the particular decision at issue. It may be 'an arbitrary, capricious, whimsical, or manifestly unreasonable judgment.'" *Flagg*, 171 N.J. at 571 (quoting *Coletti v. Cudd Pressure Control*, 165 F.3d 767, 777 (10th Cir.1999)).

However, with respect to the trial court's application of the law, "[a] trial court's interpretations of the law and the legal consequences that flow

from established facts are not entitled to any special deference.” *Manalapan Realty, LP v. Twp. Comm. of Manalapan*, 140 N.J. 366, 378 (1995). The trial court’s interpretation of court rules is also subject to de novo review. *Myron Corp. v. Atl. Mut. Ins. Corp.*, 407 N.J. Super. 302, 309 (2010).

Indeed, “the opening of default judgments should be viewed with great liberality, and every reasonable ground for indulgence is tolerated to the end that a just result is reached.” *Marder v. Realty Constr. Co.*, 84 N.J. Super. 313, 319 (App. Div. 1964) (citing *Foster v. New Albany Machine & Tool Co.*, 63 N.J. Super. 262 (App. Div. 1960)). For example, “[e]ven where a defendant admits liability, a reopening of the judgment for purposes of assessing damages is proper where the defendant provides a reasonable assertion to the effect that it is not liable for the amount of damages claimed by the plaintiff. *Ibid.* Thus, “[i]n weighing these circumstances, [the Court] cannot lose sight that a court’s power to vacate a judgment is based on equitable principles.” *DeAngelo*, 464 N.J. Super. at 109.

POINT I. THE TRIAL COURT ERRED BY APPLYING THE INCORRECT SUBSECTION OF RULE 4:50-1 (Raised Below²)

In denying Valentine’s Motion to Vacate Default Judgment, the entirety

² Valentine’s Motion Brief cites *R. 4:50-1(d)* and *R. 4:50-1(f)* as the authorities relied upon by Valentine; however, Valentine’s Brief does not meet any of the criteria under *R. 2:6-1(a)(2)* and has therefore been excluded from Defendant-

of the trial court's reasoning is as follows:

Defendant's motion to vacate default judgment is hereby DENIED. Pursuant to R. 4:50-1(a), a default judgment will not be disturbed unless the failure to answer or otherwise appear and defend was excusable under the circumstances and the defendant has a meritorious defense. See *US Bank Nat. Ass'n v. Guillaume*, 209 N.J. 449, 468 (2012). Additionally, under R. 4:50-2, a party seeking to vacate default judgment must make the appropriate application with a reasonable time, but “not more than one year after judgment, order, or proceeding was entered or taken.” In the present matter, default judgment was entered on March 2, 2020, and Defendant makes this motion more than one year later, on April 24, 2024. For the foregoing reasons, Defendant's motion is DENIED.

Dec. 24, 2024 Order at p. 2 (Da36). Based on the above passage, the singular basis for the trial court's denial of Valentine's Motion was that the Motion was filed “more than one year” after the entry of default judgment. The trial court cites R. 4:50-1(a) and therefore applies the related one-year time constraint as per R. 4:50-2. However, Valentine's Motion was not brought under R. 4:50-1(a); the Motion was brought under R. 4:50-1(d) (“the judgment or order is void”) and R. 4:50-1(f) (the equitable catchall which includes “any other reason justifying relief from the operation of the judgment or order”).

Further, notwithstanding the trial court's mention of a “meritorious defense,” motions made under R. 4:50-1(d) or R. 4:50-1(f) do not require a meritorious defense. See *Jameson v. Great Atl. & Pac. Tea Co.*, 363 N.J.

Appellant's Appendix.

Super. 419, 425 (App. Div. 2003); *DeAngelo*, 464 N.J. Super. at 109 (App. Div. 2020) (quoting *US Bank Nat. Ass'n v. Guillaume*, 209 N.J. 449, 484 (2012)). More importantly, R. 4:50-2 makes clear that the one-year time limit is applicable *only* to R. 4:50-1(a), (b), and (c): “The motion shall be made within a reasonable time, **and for reasons (a), (b) and (c) of R. 4:50-1 not more than one year after the judgment, order or proceeding was entered or taken.**” (emphasis added). The trial court’s application of the law and the Court Rules to the case at bar, which is owed no special deference by this Court, rests on an incorrect basis. The trial court applied the one-year time limit in determining that Valentine’s Motion was untimely; however, that one-year time limit is indisputably inapplicable to Valentine’s Motion. Thus, the trial court unquestionably erred and the Order denying Valentine’s Motion should be reversed.

POINT II. EQUITY REQUIRES VACATING A VOID JUDGMENT (Raised Below)

Consumer lenders must be licensed. If unlicensed, the debt is void. They have “no right to collect or receive any principal, interest, or charges” See N.J.S.A. 17:11C-33(b). DAP was not licensed. While hiding its unlicensed status, DAP has Unifund sue in Unifund’s name even though DAP retains title to the debt. This is hidden from consumers like Ms. Valentine.

NJCFLA seeks to protect New Jersey borrowers. It also levels the playing field among consumer lenders so that lawful consumers lenders are not disadvantaged by unlawful one's. Based on these policy goals, courts should not condone unlawful and deceitful conduct by allowing judgments to stand on void debts. For example, in *Schwartz v. Battifarano*, 2 N.J. 478, 484 (1949), our Supreme Court held:

Here, however, the applicable section of the statute expressly declares judgments based on gambling transactions, or on loans knowingly made to aid in such transactions, to be void and of no effect. In view of the emphatic declaration of public policy by the Legislature with respect to gambling debts, and the strict enforcement of that policy by the courts, a judgment based on a gambling transaction, declared void by the statute, is subject to collateral attack.

Here, in line with the NJCFLA's strong public policy, where the Legislature declared these loans "shall be void," a judgment based on a void debt should not stand. It needs to be vacated.

CONCLUSION

For the foregoing reasons, Defendant-Appellant Cassandra Valentine respectfully requests that the December 24, 2024 Order denying the Motion to Vacate Default Judgment be reversed.

Respectfully submitted,

Dated: September 24, 2025

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**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION**

Docket No. A-001668-24

UNIFUND CCR LLC, AAO CAPITAL	:	CIVIL ACTION
ONE BANK (USA) N.A.,	:	
	:	ON APPEAL FROM THE
Plaintiff-Respondent,	:	ORDER DENYING
	:	MOTION TO VACATE
v.	:	DEFAULT JUDGMENT
	:	
CASSANDRA VALENTINE,	:	Trial Court Docket No.
	:	ESX-DC-19766-19
Defendant-Appellant.	:	
	:	Sat Below:
	:	HON. MAYRA V.
	:	TARANTINO, J.S.C
	:	DATE: December 24, 2024

**PLAINTIFF-RESPONDENT'S BRIEF IN OPPOSITION TO
DEFENDANT-APPELLANT'S BRIEF**

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TABLE OF JUDGMENTS, ORDERS AND RULINGS

Order Denying Valentine’s Motion to Vacate Default Judgment

filed December 24, 2024..... Da35

PRELIMINARY STATEMENT

The trial court correctly denied Defendant-Appellant Cassandra Valentine's ("Valentine" or "Defendant") Motion to Vacate the Default Judgment (the "Motion to Vacate" or "Motion") rendered against Valentine in the Superior Court of New Jersey, Law Division, Special Civil Part, Essex County. The trial court relied on established principles related to Valentine's failure to file the Motion to Vacate within a reasonable time as required by Rule 4:50-2. Indeed, Valentine filed her Motion to Vacate four (4) years after the default judgment was entered, even though she knew of the judgment shortly after its entry. The trial court acted within its discretion to consider the totality of the circumstances regarding timeliness and determined correctly that Valentine filed her Motion to Vacate too late.

On appeal, Valentine argues that the trial court abused its discretion in denying her Motion to Vacate because it applied the incorrect subsection of Rule 4:50-1. Valentine contends that the trial court based its decision on "the singular basis... that the Motion was filed 'more than one year' after the entry of default judgment" which is a time limit only applied to motions made under Rule 4:50-1(a)-(c). Valentine contends that the trial court's finding of untimeliness is therefore incorrect because she moved to vacate the default judgment under subsections (d) and (f) of the rule.

Valentine's argument fails because she neglects to acknowledge that, regardless of subsection, a motion to vacate a judgment must be brought within a reasonable time under Rule 4:50-2. It is indisputable that Valentine failed to file her Motion to Vacate until over four years after the judgment was entered against her, which as explained fully below, is untimely under Rule 4:50-2. The trial court properly denied Valentine's Motion to Vacate because it was untimely under Rule 4:50-2, and there is no plausible suggestion that the trial court abused its discretion in reaching that decision. That should end the matter.

Nonetheless, Valentine also argues that equity requires vacating the default judgment. She fails, however, to establish that she meets the specific requirements to vacate the default judgment under subsections (d) or (f), let alone identify any inequities that would warrant relief beyond the requirements of the rule. Valentine cannot show that the judgment is void as required by Rule 4:50-1(d) and cannot establish that there are any exceptional circumstances as required by Rule 4:50-1(f).

Accordingly, the trial court properly followed Rule 4:50-1, Rule 4:50-2, and New Jersey law generally in denying Valentine's Motion to Vacate. The Court should affirm the December 24, 2024 decision to deny Valentine's Motion to Vacate, and hold that the trial court did not abuse its discretions in holding (correctly) that: (1) Valentine's Motion to Vacate was untimely under Rule

4:50-2; and (2) enforcement of the judgment would not be unjust, oppressive, or inequitable because the judgment is not void.

COUNTERSTATEMENT OF FACTS

Distressed Asset Portfolio III, LLC (“DAP III”) is a passive debt buyer. (Da28). After purchasing an account, DAP III assigns the account to an affiliate, Unifund CCR, LLC (“Unifund” or “Respondent”), for servicing and collection. (Da29). DAP III does not manage or undertake collection of accounts it purchases, nor does it otherwise service the accounts. (Da28-29). This appeal involves an unpaid debt that Valentine incurred with Capital One Bank in the amount of \$2,787.94 (the “Debt”). (Da1; Da28). DAP III acquired the Debt and assigned it to Unifund for servicing and collection. (Da29-34).

COUNTERSTATEMENT OF PROCEDURAL HISTORY

On November 15, 2019, Unifund initiated a lawsuit against Valentine to collect the unpaid Debt. (Da1). Valentine was properly served with the complaint, but failed to respond or otherwise appear in the lawsuit on time. (Da4). Accordingly, Unifund filed a Request to Enter Default Judgment on February 21, 2020. (Da5). On March 3, 2020, still without any appearance from Valentine, the trial court entered a default judgment against her in the amount

of \$2,915.70. (Da15). Unifund attempted to execute on the judgment, but the judgment was never satisfied. (Da17).

In the meantime, Valentine herself initiated two lawsuits against Unifund regarding collection of the same Debt. Each suit asserts the same “void judgment” theory based on purportedly unlicensed collection activity that she asserts here as well: one suit in the United States District Court for the District of New Jersey on April 23, 2020, and one suit in the Bergen County Superior Court on January 23, 2023. *See Valentine v. Unifund CCR, LLC*, Civil Action No. 20-5024, 2023 U.S. Dist. LEXIS 200 (D.N.J. Jan. 3, 2023) (dismissed for lack of standing); *Valentine v. Unifund CCR, LLC*, 2023 N.J. Super. Unpub. LEXIS 4234, 2023 LX 25391 (dismissed, in part, because Valentine lacked a private right of action under the NJCFLA; *aff'd*, *Valentine v. Unifund CCR, LLC*, No. A-0835-23, 2025 N.J. Super. Unpub. LEXIS 765 (Super. Ct. App. Div. May 6, 2025); pending certification determination before the Supreme Court of New Jersey in *Valentine v. Unifund CCR, LLC*, Supreme Court Docket No. 090810).

Only after both of Valentine’s offensive cases were dismissed did she take any action regarding the default judgment at issue in this appeal. On April 24, 2024 – more than four years after the trial court entered the default judgment – Valentine filed a Motion to Vacate the Default Judgment pursuant to Rule 4:50-

1(d) and Rule 4:50-1(f). (Da18-26). Valentine argued that the Debt was void due to DAP III's alleged failure to comply with the licensure requirement of the New Jersey Consumer Finance Licensing Act ("NJCFLA"), and that the interests of justice and equity required the trial court to vacate the default judgment against her. *Id.* Unifund opposed Valentine's Motion to Vacate the Default Judgment because Valentine lacked a private right of action under the NJCFLA and because she failed to file her motion within a reasonable time as required under R. 4:50-2. (Da27-29). The trial court agreed with Unifund and denied Valentine's Motion to Vacate on December 24, 2024. (Da35-36)¹.

LEGAL ARGUMENTS

Standard of Review

New Jersey appellate courts apply an abuse of discretion standard when reviewing a motion to vacate final judgment pursuant to Rule 4:50-1. *US Bank Nat. Ass'n v. Guillaume*, 209 N.J. 449, 467 (2012). Appellate courts accord substantial deference to a trial court's determination of a motion to vacate a default judgment, making clear that the judgment "should not be reversed unless it results in a clear abuse of discretion." *Id.* (citing *DEG, LLC v. Twp. of Fairfield*, 198 N.J. 242, 261 (2009)); *Hous. Auth. of Morristown v. Little*, 135

¹ There is no transcript associated with the trial court's decision because there was no oral argument.

N.J. 274, 283 (1994). A clear abuse of discretion only arises “when a decision is ‘made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis.’” *Id.*, quoting *Iliadis v. Wal-Mart Stores, Inc.*, 191 N.J. 88, 123 (2007). In sum, the abuse of discretion standard strongly favors leaving a trial court’s decision undisturbed absent exceptional circumstances.

Here, the trial court correctly denied Valentine’s Motion to Vacate the Default Judgment, and, in any event, certainly did not abuse its discretion. The trial court specifically decided that Valentine’s Motion to Vacate was untimely under Rule 4:50-2, which is consistent with New Jersey precedent on this issue. As the Appellate Division repeatedly held in similar cases, the trial court was well within its discretion in rendering its decision. Valentine cannot show that the trial court’s decision was without rational explanation, that it inexplicably departed from established policies, or that it rested on any impermissible basis. This Court should, therefore, affirm the trial court’s decision to deny Valentine’s Motion to Vacate.

POINT I. The Trial Court Correctly Denied Valentine’s Motion to Vacate the Default Judgment Under Rule 4:50-1 and 4:50-2 (Raised Below Da35-Da36)

Valentine first argues that the trial court applied the incorrect subsection of Rule 4:50-1 because it found that her Motion to Vacate was untimely for not

having been brought within a year after the judgment was rendered. (Db7)². Valentine asserts that the trial court based its decision on “the singular basis... that the Motion was filed ‘more than one year’ after the entry of default judgment,” but fails to acknowledge that, regardless of subsection, the motion must be brought within a reasonable time. (Db7). Here, Valentine filed her Motion to Vacate four years after the trial court rendered the default judgment. As discussed below, this delay was inexcusable and untimely, and she cannot demonstrate that the trial court denied her untimely request without any rational explanation.

A. The Trial Court Decided Correctly That Valentine Failed to Move Pursuant to Rule 4:50-1 Within the Reasonable Time Required By Rule 4:50-2

There is no question that Valentine’s four-year delay in seeking relief was untimely. Under Rule 4:50-2, a motion to vacate a default judgment must be made withing a “reasonable time, . . . after the judgment, order or proceeding was entered or taken.” *See* R. 4:50-2. Notably, Rule 4:50-2’s reasonable time requirement applies regardless of which subsection of Rule 4:50-1 the movant relies upon in the motion to vacate. *Id.*

“Reasonable time” depends on the totality of the circumstances of each case, but New Jersey courts hold regularly that as much as a four-year delay is

²Hereinafter, “Db” refers to Valentine’s appellate brief

not reasonable. *N.A.R., Inc. v. Ritter*, No. A-0322-23, 2024 N.J. Super. Unpub. LEXIS 1313, at *5-6 (Super. Ct. App. Div. June 24, 2024), quoting *Romero v. Gold Star Distrib., LLC*, 468 N.J. Super. 274, 296, 257 A.3d 1192 (App. Div. 2021); *Wilmington Tr. v. Zarour*, No. A-1386-21, 2023 N.J. Super. Unpub. LEXIS 1186, at *5 (Super. Ct. App. Div. July 14, 2023) (“Defendant’s motion to vacate was filed more than four years after final judgment was entered. That is not ‘a reasonable time.’”); *Garza v. Paone*, 44 N.J. Super. 553, 558 (App. Div. 1957) (concluding the defendant’s nearly four-year delay in filing motion to vacate was not reasonable).

Moreover, a trial court has discretion to consider the applicable circumstances. *N.A.R., Inc.*, at *5. In doing so, the trial court balances the “strong interest in finality of judgments and judicial efficiency with the equitable notion that courts should have authority to avoid an unjust result in any given case.” *Guillaume*, 209 N.J. 449, 467, quoting *Mancini v. EDS*, 132 N.J. 330, 334 (1993). The balance of these interests is squarely within the trial court’s discretion. *Id.*

Here, the trial court exercised its discretion correctly to deny Valentine’s Motion to Vacate because she failed to seek relief within a reasonable time. Unifund filed its initial collection lawsuit against Valentine on November 15, 2019. (Da1). Valentine failed to appear in the action or respond in any capacity

until she filed her Motion to Vacate **over four years later**. (Da18-Da26). She delayed that long despite having been served successfully with the complaint prior to the default. (Da2).

Valentine's only explanation for her delay is that she was not represented by counsel in Unifund's 2019 collection suit against her, and that she only knew of DAP III's unlicensed status after she "learned" of it from her attorneys. (Da25; Db1). That explanation is no excuse for failing to appear at all for more than four years, especially considering that she hired the same law firm currently representing her in this matter at least as early as April 2020, when she filed the first of two separate offensive lawsuits against Unifund in federal and state court regarding collection **of the exact same Debt** and **asserting the exact same argument** that the Debt is void. *See Valentine*, 2023 U.S. Dist. LEXIS 200 (filed April 23, 2020); *Valentine*, 2023 N.J. Super. Unpub. LEXIS 4234 (filed January 23, 2023). She and her counsel knew the basis on which they now seek relief for years before they did anything about it.

Valentine could have moved to vacate the default judgment at least as early as April 2020 – when she first sued Unifund only a couple months after the trial court entered the judgment against her. Instead, she inexplicably waited four years later, until April 24, 2024, to take any action. The trial court properly considered the totality of these circumstances and made a decision within its

sound discretion consistent with preserving the strong interest in finality of judgments and judicial efficiency. Valentine's four-year delay is untimely under Rule 4:50-2, regardless of which subsection upon which she relied in her Motion to Vacate. The trial court properly denied her relief.

B. Valentine Cannot Meet the Requirements to Vacate the Judgment Under Rule 4:50-1

The untimeliness of Valentine's Motion is dispositive and should end the matter. Additionally, however, Valentine is not entitled to relief because she cannot meet the requirements under Rule 4:50-1. In her brief, Valentine asserts that she is entitled to relief under Rule 4:50-1(d) because the default judgment is void, and also under Rule 4:50-1(f) for equitable reasons. As discussed below, however, the default judgment is not void for reasons the Appellate Division has reviewed time and again. Furthermore, Valentine critically fails to identify any exceptional circumstances under Rule 4:50-1(f). Therefore, not only was Valentine's Motion to Vacate untimely, but she also failed to demonstrate that she is entitled to relief under any section of Rule 4:50-1.

1. The Default Judgment is Not Void

Valentine argues under Rule 4:50-1(d) that the default judgment should be vacated because it is void as a result of DAP III being unlicensed under the NJCFLA when Unifund filed its collection lawsuit against her. (Db3-Db4; Db7). Valentine's position is incorrect and contrary to New Jersey law. As

demonstrated by the Appellate Division’s repeated decisions on this issue, the NJCFLA does not provide an express or implied private right of action. *N.A.R., Inc.*, 2024 N.J. Super. Unpub. LEXIS 1313, at *9; *Jefferson Capital Sys., LLC Inc/Santander Consumer USA v. Glover*, No. A-3545-22, 2024 N.J. Super. Unpub. LEXIS 1248, at *8 (Super. Ct. App. Div. June 18, 2024), citing *Francavilla v. Absolute Resols. VI LLC*, 478 N.J. Super. 171, 180 (Super. Ct. App. Div. Mar. 14, 2024) (finding a private citizen “may not enforce the CFLA’s license requirement because the Legislature did not provide a private right of action under the CFLA.”).³ Litigants like Valentine, therefore, cannot vacate a judgment pursuant to Rule 4:50-1(d) by engaging in an end-run around the lack of private relief under the NJCFLA. *Id.*

2. No Exceptional Circumstances or Inequities Exist

Valentine also fails to identify exceptional circumstances or inequities that would justify vacating the default judgment under Rule 4:50-1(f). Exceptional circumstances are required to vacate a judgment under Rule 4:50-

³ See, e.g., *Francavilla* (the NJCFLA does not contain a private right of action); *N.A.R., Inc.*, 2024 N.J. Super. Unpub. LEXIS 1313 (same); *Woo-Padva v. Midland Funding*, No. A-1996-21, 2023 N.J. Super. Unpub. LEXIS 1550, at *9 (Super. Ct. App. Div. Sep. 21, 2023) (same, dismissing Plaintiff’s declaratory judgment and injunctive relief claims because “Plaintiff cannot circumvent the lack of a private right of action by seeking relief under the Uniform Declaratory Judgments Act, N.J.S.A. 2A:16-50 to 62.”); *Delgado v. LVNV Funding, LLC*, 2024 N.J. Super. Unpub. LEXIS 713, at *10-14 (same); *Valentine*, 2023 N.J. Super. Unpub. 4234, at *13 (same).

1(f), and Valentine's failure to identify any such circumstances is dispositive. Subsection (f) of Rule 4:50-1 is a "catch-all provision" that states the court may relieve a party from a final judgment if "any other reason justifying relief from the operation of the judgment or order." See Rule 4:50-1(f); *N.A.R., Inc.*, 2024 N.J. Super. Unpub. LEXIS 1313, at *5-6, quoting *Romero*, 468 N.J. Super. 274, 296. Relief under subsection (f) of Rule 4:50-1 requires the showing of "truly exceptional circumstances." *Id.*, quoting *Little*, 135 N.J. 274, 286 (quoting *Baumann v. Marinaro*, 95 N.J. 380, 395 (1984); see also *Glover*, 2024 N.J. Super. Unpub. LEXIS 1248, at *9; *LVNV Funding LLC v. Costello*, No. A-3446-23, 2025 N.J. Super. Unpub. LEXIS 1237, at *8 (Super. Ct. App. Div. July 7, 2025). Truly exceptional circumstances are required for vacating a default judgment "because of the 'importance that we attach to the finality of judgments.'" *Id.* Not only must the movant "demonstrate the circumstances are exceptional," but also that "enforcement of the judgment or order would be unjust, oppressive or inequitable." *Johnson v. Johnson*, 320 N.J. Super. 371, 378 (App. Div. 1999).

Valentine fails utterly to identify any exceptional circumstances at all, let alone any that would warrant vacating the default judgment. She also fails to demonstrate how or why enforcement of the default judgment would be unjust, oppressive, or inequitable. Valentine cannot overcome the fact that her Motion

to Vacate was indisputably and inexcusably untimely, and that she and her counsel knew within two months of the default judgment the very same substantive argument under the NJCFLA that she makes now. Valentine therefore fails to meet the requirements necessary to vacate a default judgment under Rule 4:50-1(f).

Indeed, any argument Valentine could plausibly make has already been discredited by New Jersey courts. The Appellate Division already held repeatedly that the lack of a license under the NJCFLA does not constitute an exceptional circumstance under Rule 4:50-1(f). In fact, the same law firm that represents Valentine in this case argued previously that the lack of a license under the NJCFLA constitutes an exceptional circumstance. The Appellate Division rejected this argument at every opportunity: “We reject defendant’s newly minted argument that [Respondent’s] alleged lack of licensure under the NJCFLA is the ‘exact sort of exceptional circumstance this [c]ourt has ruled necessitates the vacating of a default judgment pursuant to *R[ule]* 4:50-1(f).’” *N.A.R., Inc.*, 2024 N.J. Super. Unpub. LEXIS 1313, at *10; *see also Glover*, 2024 N.J. Super. Unpub. LEXIS 1248, at *10; *LVNV Funding LLC v. Diana*, No. A-2924-23, 2025 N.J. Super. Unpub. LEXIS 615 (Super. Ct. App. Div. Apr. 17, 2025); *Midland Funding LLC v. Williams*, No. A-2961-22, 2024 N.J. Super. Unpub. LEXIS 466 (Super. Ct. App. Div. Mar. 21, 2024).

Valentine did not, and cannot, demonstrate that alleged violations of the NJCFLA constitute an exceptional circumstance required to vacate a judgment under Rule 4:50-1(f). Nor did Valentine identify any other exceptional circumstance. Accordingly, this Court should affirm the trial court's decision to deny Valentine's Motion to Vacate the Default Judgment.

POINT II. Equity Does Not otherwise Require Vacating the Default Judgment (Raised Below Da35-Da36)

Finally, Valentine asserts a public policy argument on the basis that DAP III was not licensed under the NJCFLA at the time Unifund filed the collection suit. (Db8-Db9). Valentine does not state any other equitable considerations. As explained above, New Jersey courts held repeatedly that litigants like Valentine cannot circumvent the NJCFLA's lack of a private right of action in an attempt to enforce its provisions to void their Debt. For the same reasons, Valentine cannot rely on the NJCFLA to void the default judgment under general principles of equity. The NJCFLA unequivocally does not provide a private right of action, and therefore, cannot be used as a mechanism for relief under Rule 4:50-1. *N.A.R., Inc.*, 2024 N.J. Super. Unpub. LEXIS 1313, at *9; *Glover*, 2024 N.J. Super. Unpub. LEXIS 1248, at *8. As explained above, Valentine fails to identify any other inequities that would excuse her manifest untimeliness. The Court should affirm the trial court's decision.

CONCLUSION

For the foregoing reasons, this Court should affirm the trial court's decision to deny Valentine's Motion to Vacate the Default Judgment.

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Dated: October 24, 2025

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION**



Docket No. A-001668-24

UNIFUND CCR, LLC; AAO	:	CIVIL ACTION
CAPITAL ONE BANK (USA), N.A.	:	
	:	ON APPEAL FROM THE FINAL
Plaintiff-Respondent,:	:	JUDGMENT OF THE SUPERIOR
	:	COURT OF NEW JERSEY
v.	:	LAW DIVISION: SPECIAL CIVIL
	:	PART, ESSEX COUNTY
CASSANDRA VALENTINE,	:	
	:	Trial Court Docket No.
Defendant-Appellant.:	:	ESX-DC-19766-19
	:	
	:	Sat Below:
	:	HON. MAYRA V. TARANTINO,
	:	J.S.C.
	:	
	:	DATE: November 25, 2025

**REPLY BRIEF AND APPENDIX
ON BEHALF OF DEFENDANT-APPELLANT**

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PRELIMINARY STATEMENT

This appeal turns on a fundamental error of law. The trial court denied Defendant’s Rule 4:50-1(d) and (f) motion by applying a categorical one-year bar, rather than the totality-of-the-circumstances inquiry required by Rule 4:50-2 and long-settled precedent. *See Romero v. Gold Star Distrib., LLC*, 468 N.J. Super. 274, 296 (App. Div. 2021).

Once the correct legal standard is applied, Defendant’s motion was plainly filed within a reasonable time. The record shows that Plaintiff’s structure—where Distressed Asset Portfolio III, LLC (“DAP”) retained ownership of the debt while Unifund CCR, LLC (“Unifund”), a separately licensed affiliate, acted “for collection purposes only”—affirmatively concealed the statutory illegality forming the basis of the motion to vacate. Rule 4:50-1(f) exists precisely for cases like this—where enforcing a judgment would sanction illegality and produce a “grave injustice.” Even if Defendant’s delay were viewed as imperfect, equity does not permit a court to uphold a judgment founded on conduct the Legislature has criminalized. *See* N.J.S.A. 17:11C-33(b). DAP, as the true owner of the debt, never submitted to the Commissioner’s review to ensure that it “will be operated honestly, fairly, and efficiently within the purposes of this act,” nor did it provide “fingerprints and written consent for a criminal history record background check,” as the Act

requires. N.J.S.A. 17:11C-7(c), (e). Those omissions are statutory barriers designed to protect consumers from unvetted, unlicensed lenders. Allowing DAP and Unifund to profit from a judgment obtained through such unlawful means would directly contravene the NJCFLA's strong public policy.

Finally, while Plaintiff suggests that the absence of an explicit private right of action under the NJCFLA insulates its conduct, that argument misses the point. In this context, a private right of action is immaterial. The issue before this Court is not whether Defendant could have sued under the statute, but whether the court, sitting in equity, may enforce a judgment obtained in violation of its core public-policy provisions. As *DeAngelo* demonstrates, courts rely on the **public policy** embodied in the statute to guide their equitable analysis. The NJCFLA's policy—ensuring that only licensed, vetted entities may own or collect consumer debts—is no less vital.

Under the totality of these circumstances—concealed statutory violations, absence of prejudice to Plaintiff, and the Legislature's unmistakable policy against unlicensed lending—denying vacatur would elevate procedural form over substantive justice.

REPLY ARGUMENT

POINT I. REASONABLENESS UNDER RULE 4:50-2 IS A TOTALITY-OF-THE-CIRCUMSTANCES INQUIRY, NOT A PER SE BAR.

Defendant's Motion to Vacate was brought under *R.* 4:50-1(d) and (f),

which require that the motion be “brought within a ‘reasonable time,’ which could be more or less than one year after the judgment, depending on the circumstances.” *See Romero*, 468 N.J. Super. at 296; *see also R. 4:50-2*.

Plaintiff contends the Motion was untimely because some courts have found similar or shorter delays unreasonable under their own facts, effectively urging this Court to adopt a per se rule. (Opp. at 7–8). But as Plaintiff itself acknowledges, “reasonable time is determined upon the totality of the circumstances.” *Romero*, 468 N.J. Super. at 296. The very notion of a “totality” standard precludes rigid temporal bars: a lapse that is reasonable in one case may be unreasonable in another, depending on the specific facts before the court. *Id.* (“The trial court has the discretion to consider the circumstances of each case.”).

Plaintiff’s cited authorities merely apply that discretionary framework to their particular records; none establishes a categorical cutoff. (Opp. at 7–8.) Indeed, courts have found even longer delays reasonable where the equities justified relief. *See, e.g., LVNV Funding, LLC v. DeAngelo*, 464 N.J. Super. 103 (App. Div. 2020) (affirming vacatur after an eight-year delay under *R. 4:50-1(f)*). Here, by contrast, the trial court engaged in no “totality” analysis at all—it applied an inapplicable one-year bar and never considered whether, under these facts, Defendant’s motion was made within a “reasonable time.”

(Opening Br. at 6–8).

POINT II. VALENTINE’S MOTION WAS FILED WITHIN A REASONABLE TIME WHEN CONSIDERING THE TOTALITY OF THE CIRCUMSTANCES

a. *Concealment of statutory illegality supports reasonableness despite the passage of time.*

Unifund’s structure affirmatively concealed the statutory violation that forms the basis of the motion to vacate. The assignment agreement (Da30)—only revealed years later—shows that Distressed Asset Portfolio III, LLC (“DAP”) retained title and ownership of the debt, while Unifund CCR, LLC, a separate but licensed entity, acted solely “for collection purposes” and even litigated in its own name. On the face of the 2020 complaint, Unifund appeared to be the owner of the account. Even a diligent consumer could not have known that DAP, an unlicensed entity, was the true owner or that this ownership structure itself violated the NJCFLA.

LVNV Funding, LLC v. DeAngelo, 464 N.J. Super. 103 (App. Div. 2020) (“*DeAngelo II*”) underscores that the *reasonableness* inquiry is contextual and equitable. In *DeAngelo II*, the defendant waited eight years to challenge a default judgment on an invalid debt (the debt was time-barred). *Id.* at 109. Although the trial court found his delay “inexcusable,” both the Law Division and the Appellate Division recognized that enforcing a judgment obtained in violation of consumer-protection law would constitute the greater injustice.

See id. at 110; *see also LVNV Funding, LLC, v. DeAngelo*, GLO-L-1242-09 (Law Div. Aug. 13, 2019), Memorandum of Opinion Granting Vacatur (“*DeAngelo I*”), at 18 (finding that “a grave injustice” would occur if default was not vacated) (Dra18). The trial court emphasized that equity can override elapsed time when the underlying enforcement contravenes statutory policy. *See DeAngelo I*, at 19 (Dra19). The trial court captured the principle succinctly: “[i]t would be inequitable to permit the Plaintiff to file [a statutorily invalid complaint], then deny the Defendant’s motion because it was filed late.” *Id.* (Dra19).

That principle applies squarely here. Like the *DeAngelo* plaintiff, Unifund prosecuted and enforced a judgment notwithstanding its statutory violations. Because Unifund’s structure concealed those violations until years later, the lapse of time cannot defeat relief. The equities weigh decisively against allowing a judgment obtained through concealed illegality to stand.

b. *Equity favors vacatur*

In weighing the circumstances surrounding reasonableness of time to file under R. 4:50-2, Courts “cannot lose sight that a court's power to vacate a judgment is based on equitable principles.” *DeAngelo II*, 464 N.J. Super. at 109 (citing *Hodgson v. Applegate*, 31 N.J. 29, 37 (1959)). As *DeAngelo II* observed, “[c]ourts must often choose the weightier of two competing

equitable rights; at times they may even have to choose the least blameworthy of two competing wrongs.” *Id.*

The same balancing applies here. The trial court never undertook any equitable weighing because it applied the wrong legal standard, denying the motion on a categorical one-year bar. Even if Defendant’s delay were deemed “inexcusable,” equity demands relief because the alternative would ratify a judgment founded on conduct criminalized by statute. The NJCFLA expressly classifies the acts of DAP and Unifund as a fourth-degree crime: “[a] consumer lender who violates or participates in the violation of any provision of section 3 . . . **shall be guilty of a crime of the fourth degree.**” N.J.S.A. 17:11C-33(b) (emphasis added).

Plaintiff has argued that the NJCFLA (unlike the FDCPA in *DeAngelo*) does not have a explicit private right of action (*see* Opp. at 10-11), but that distinction is immaterial when the court is merely weighing equities. Whether or not Defendant could have brought an affirmative suit under the NJCFLA, the statute’s public policy—to bar unlicensed entities from owning or collecting consumer debt—remains a relevant equitable factor. *See DeAngelo II*, 464 N.J. Super, at 110 (judge correctly considered the FDCPA’s public policy “which strongly favors the curbing of ‘abusive debt collection practices.’”); *DeAngelo I*, at 18 (“The Court finds that [the FDCPA] policy

concerns are important to the totality of the circumstances and finds that they weigh in favor of granting the motion [to vacate default].”) (Dra18). Notably, neither *DeAngelo* court discussed any prospective private action by the defendant; both focused exclusively on the public policy embodied in the governing statute.¹

Enforcing this judgment would be inequitable because the record shows DAP—the actual owner of the account and the statute’s violator—never underwent the NJCFLA’s licensure vetting to ensure a business “will be operated honestly, fairly, and efficiently within the purposes of this act,” N.J.S.A. § 17:11C-7(c), never provided the required “fingerprints and written

¹ Defendant notes that two days before the filing of this Reply, the Appellate Division issued an unpublished opinion in *Unifund CCR LLC v. Garabedian*, A-4148-23 (App. Div. Nov. 5, 2025). (Dra21). While factually similar, *Garabedian* is not precedential and “shall not constitute precedent or be binding upon any court.” *See* R. 1:36-3. The panel there applied an abuse-of-discretion standard only because the trial court used the correct totality-of-circumstances analysis under Rule 4:50-2—unlike here, where the trial court categorically applied an inapplicable one-year bar. (*See* Opening Br. at 6-8). Finally, to the extent *Garabedian* deems it “meaningful” that the FDCPA contains an explicit private right of action while the NJCFLA does not, that distinction does not diminish the statute’s public-policy weight in equity. *See DeAngelo II*, 464 N.J. Super, at 110. Whether or not a statute affords a private remedy, its underlying legislative purpose—to prevent unlicensed entities from collecting consumer debt—remains a valid equitable consideration under Rule 4:50-1(f). *See DeAngelo I*, at 18-19 (Dra18-Dra19). Additionally, though Plaintiff here has referenced Valentine’s prior action against DAP and Unifund in the District of New Jersey, Plaintiff neglects to mention that, prior to dismissal for lack of subject matter jurisdiction based on developments in jurisprudence over constitutional standing, the District Court reasoned that “[c]ourts in this district have determined that a debt collector's failure to obtain a license pursuant to the NJCLFA may constitute a violation of the FDCPA.” *Valentine v. Unifund CCR, Inc.*, 2021 U.S. Dist. LEXIS 44747, at *8 (D.N.J. Mar. 10, 2021) (Dra41). *Garabedian* therefore neither binds this Court nor alters the equitable analysis required on this record.

consent for a criminal history record background check,” N.J.S.A. § 17:11C-7(e), and, by operating without a license, committed conduct the Act classifies as a fourth-degree crime. N.J.S.A. 17:11C-33(b). In other words, DAP bypassed the very consumer-protection safeguards the Legislature made mandatory before any entity may own or collect New Jersey consumer debt, yet seeks to benefit from a judgment obtained while skirting those safeguards. Equity does not allow a court to ratify that outcome.

Additionally, New Jersey’s well-settled public policy forbids enforcement of contracts made in violation of licensing statutes. *See Accountemps Div. of Robert Half, Inc. v. Birch Tree Grp., Ltd.*, 115 N.J. 614, 626 (1989) (holding “[o]ur courts have consistently held that public policy precludes enforcement of a contract entered into in violation of [the State’s] licensing statute[s]”). Similarly, in *Insight Global, LLC v. Collabera, Inc.*, 446 N.J. Super. 525, 531-32 (Ch. Div. 2015), the Chancery Division examined the limit on the ability of an unlicensed entity to seek relief from a court. *Insight Global* held that an unlicensed party has no right to bring claims before the court and public policy prohibits enforcement of a contract entered into in violation of a licensing statute. *Insight Global, LLC*, 446 N.J. Super. at 531-32. Courts in New Jersey and many other states have consistently refused to aid or ratify illegal activities.

Indeed, Defendant recognizes that “the policy in favor of the finality of judgments plays a larger role in applications brought under [R. 4:50-1(f)] than the other subsections” of that rule. *Nowosleska v. Steele*, 400 N.J. Super. 297, 304 (App. Div. 2008) (citing *First Morris Bank & Trust v. Roland Offset Serv., Inc.*, 357 N.J. Super. 68 (App. Div. 2003)). But the “interest in repose must be ‘weighed in the balance with the equally salutary principle that justice should be done in every case.’” *Id.* (quoting *Hodgson v. Applegate*, 31 N.J. 29, 43 (1959)); *see also Klier v. Sordoni Skanska Const. Co.*, 337 N.J. Super. 76, 83 (App. Div. 2001) (“the desire to facilitate judicial administration must take a back seat to our primary goal which is to adjudicate cases fairly and impartially.”); *Matter of Corbo*, 238 N.J. 246, 255 (2019) (“[d]epriving a litigant of an opportunity to adjudicate its case on the merits runs counter to the well-established goals of this Court’s jurisprudence”). Here, justice requires vacatur of a judgment rooted in conduct that violates both statutory law and public policy. Nor would vacatur cause any cognizable prejudice to Plaintiff. The matter remains in a purely paper posture; no intervening rights have vested, no third parties have relied on the judgment, and no evidence has been lost or rendered inaccessible. The only consequence of reopening the case would be that the parties proceed to a determination on the merits—an

outcome that New Jersey courts have repeatedly favored over the mechanical preservation of default judgments.

POINT III. PLAINTIFF’S CONDUCT VIOLATES THE NJCFLA; A PRIVATE RIGHT OF ACTION IS IMMATERIAL

Whether or not the NJCFLA contains an express private right of action is irrelevant in this context. In weighing equities under Rule 4:50-1(f), the court considers the public policy embodied in the statute, not whether the statute confers an independent cause of action. Here, Plaintiff’s conduct plainly violates the NJCFLA’s core requirements, which prohibit unlicensed entities from owning or collecting consumer debt in New Jersey.

As an initial matter, Nothing binds this Court to hold that the NJCFLA lacks a private right of action. Every case addressing that issue has been unpublished, with the sole exception of *Francavilla v. Absolute Resolutions VI LLC*, 478 N.J. Super. 171 (App. Div. 2024). Yet *Francavilla*’s discussion of the NJCFLA was dictum, not a holding—it arose in the context of the Entire Controversy Doctrine, and the panel offered no reasoning beyond noting that a comparable Maryland statute expressly created a private right. *See id.* at 180; *see also Bandler v. Melillo*, 443 N.J. Super. 203, 210-11 (App. Div. 2015) (“portions of an opinion that are dicta are not binding.”). It has never been Defendant’s position that the NJCFLA has an explicit private right of action,

but rather an implied one that can be ascertained from New Jersey precedent. *See Lemelledo v. Benefit Mgmt. Corp.*, 150 N.J. 255, 272–73 (1997); *see also In re Resolution of State Com. of Investigation*, 108 N.J. 35 (1987) (providing a three part test to determine if a statute confers an implied private right of action). Not only is this issue immaterial to the issue of vacatur it is clearly unsettled. So much so that the New Jersey Supreme Court granted certification to determine whether the statute provides a private right of action. *See Diana v. LVNV Funding LLC*, 260 N.J. 313 (2025).

Defendant does not ask this Court to decide that question; the issue here is equity, not statutory interpretation. In balancing the equities, as required under *DeAngelo*, the absence of an explicit private right of action is immaterial because the public policy underlying the NJCFLA—preventing unlicensed entities from extending, owning, or collecting consumer credit—must be weighed against Plaintiff’s procedural interests. Given Plaintiff’s violation of those licensing mandates, equity cannot favor enforcing a judgment built on illegal conduct merely because Defendant delayed in discovering it. Allowing Plaintiff to benefit from a judgment obtained in violation of the NJCFLA would constitute a “grave injustice.” *See DeAngelo I*, at 18 (Dra18).

Additionally to the extent that Plaintiff does intend to invoke the statute, the use of the statute as a shield rather than a sword has been recognized by

our courts to be a permissible use of the statute. On a case on all fours with the instant action, *New Century Fin. v. Trewin*, 2018 N.J. Super. Unpub. LEXIS 1688, *9-10 (Ch. Div. May 24, 2018) (Dra51-Dra52), the court vacated a years old default judgment and held that it was “satisfied that the judgment obtained by plaintiff’s predecessor is void, by virtue of [the loan assignor’s] unlicensed status. N.J.S.A. 17:11C-33(b).” To the extent that Plaintiff may argue that the NJCFLA is inapplicable here due to an ostensible lack of a private right of action under the statute, the *Trewin* court addressed the issue, stating that “defendant is not seeking to utilize the CFLA as a sword, by asserting a private right of action under the statute. Instead, defendant is asserting the right to utilize the CFLA as a shield against enforcement of a judgment which defendant contends was void ab initio.” *Trewin*, 2018 N.J. Super. Unpub. LEXIS 1688, *6-7 (Dra50).

CONCLUSION

For the foregoing reasons, the trial court’s December 24, 2024 Order denying Defendant’s Motion to Vacate should be reversed.

Respectfully submitted,

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Dated: November 25, 2025

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