

**NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0448-14T2

CHINWE ATUEGWU,

Plaintiff-Appellant,

v.

EAST ORANGE GENERAL HOSPITAL,

Defendant-Respondent.

Submitted October 24, 2017 – Decided November 3, 2017

Before Judges Fasciale and Moynihan.

On appeal from Superior Court of New Jersey,
Law Division, Essex County, Docket No. L-6958-
13.

Chinwe Atuegwu, appellant pro se.

Sachs, Maitlin, Fleming & Greene, attorneys
for respondent (Raymond J. Fleming, of counsel;
Christopher Klabonski, on the brief).

PER CURIAM

Plaintiff appeals from an August 22, 2014 order denying her
motion for reconsideration of a July 11, 2014 order, which denied
an earlier motion for reconsideration of a March 14, 2014 order

denying her request to enter default against defendant.¹ We affirm.

In September 2013, plaintiff filed her complaint against defendant. In December 2013, defendant filed an answer and propounded discovery on plaintiff. In February 2014, plaintiff filed her motion to enter default. On March 14, 2014, the judge denied plaintiff's motion to enter default.

The record is unclear as to the exact date on which plaintiff filed her motion for reconsideration of the March 14, 2014 order, but it appears that plaintiff waited until late June or early July 2014. On July 11, 2014, the judge denied plaintiff's motion for reconsideration of the March 14, 2014 order. Although plaintiff filed an untimely motion for reconsideration, the judge denied it on the merits.

Plaintiff then sought reconsideration of the July 11, 2014 order. The record is unclear as to the exact date on which plaintiff filed her motion for reconsideration of the July 11, 2014 order, but it appears that she waited until some point in August 2014. On August 22, 2014, the judge denied plaintiff's

¹ On August 22, 2014, the judge also dismissed plaintiff's complaint with prejudice for failure to provide discovery; however, plaintiff did not appeal from the August 22, 2014 order dismissing her complaint. In entering the August order dismissing the complaint with prejudice, the judge correctly followed the two-step process outlined in Rule 4:23-5(a).

motion for reconsideration of the July 11, 2014 order. Although plaintiff may have filed it out of time, the judge considered the motion on the merits.

On appeal, plaintiff argues that the judge abused his discretion by denying her second motion for reconsideration. We conclude that plaintiff's argument is "without sufficient merit to warrant discussion in a written opinion." R. 2:11-3(e)(1)(E). We add the following brief remarks.

Reconsideration is reserved "for those cases which fall into that narrow corridor in which either 1) the [c]ourt has expressed its decision based upon a palpably incorrect or irrational basis, or 2) it is obvious that the [c]ourt either did not consider, or failed to appreciate the significance of probative, competent evidence." Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996) (quoting D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990)). The decision to deny a motion for reconsideration falls "within the sound discretion of the [trial court], to be exercised in the interest of justice." Ibid. (quoting D'Atria, supra, 242 N.J. Super. at 401).

Rule 4:49-2 requires parties seeking reconsideration of an order to file such a motion within twenty days after service of the order. The twenty-day limitation is fixed and a court may not enlarge the deadline. R. 1:3-4(c). A party's motion for


reconsideration "shall state with specificity the basis on which it is made, including a statement of the matters or controlling decisions which counsel believes the court has overlooked or as to which it has erred." R. 4:49-2.

Here, plaintiff filed her first motion for reconsideration beyond the twenty-day limitation. For that reason alone, the judge could have denied that motion. And it appears that the same can be said for the filing of the second motion for reconsideration. Nevertheless, and as to both orders denying reconsideration, plaintiff has failed to show that the judge expressed his decision based upon a palpably incorrect or irrational basis, or that it is obvious that the judge either did not consider, or otherwise failed to appreciate the significance of probative, competent evidence.

Plaintiff filed her motion to enter default two months after defendant had filed its answer to the complaint. As a result, there was no basis to enter default against defendant. Therefore, in denying plaintiff's motions for reconsideration, the judge did not abuse his discretion.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION