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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-1321-15T2

KATHARINE LAI,

Plaintiff-Appellant,

v.

NARDULLI, GIBBONS and IAC,

Defendants-Respondents.

Submitted March 22, 2017 — Decided April 7, 2017

Before Judges Alvarez and Accurso.

On appeal from Superior Court of New Jersey,
Law Division, Middlesex County, Docket No.
L-3126-15.

Katharine Lai, appellant pro se.

Thomas Paschos & Associates, PC, attorneys
for respondents (Thomas F. Gallagher, on the
brief).

PER CURIAM

Plaintiff Katharine Lai appeals from an October 1, 2015
order denying reconsideration of a prior order dismissing her
complaint against defendants Nardulli, Gibbons and IAC without
prejudice. Because a review of plaintiff's complaint and

subsequent filings make clear she has never alleged sufficient facts to even suggest a cause of action against these defendants, we affirm.

In a complaint filed in the Law Division, plaintiff alleged she owns commercial property in Highland Park, which was damaged as a result of freezing pipes in February 2015. She reported her claim to her insurance carrier, Guard Company, on February 21, and received a certified letter on February 26, acknowledging the claim and identifying the adjuster as Capstone. She subsequently received a telephone call from defendant Gibbons, an employee of IAC, who identified himself as the adjuster assigned to her claim.

Plaintiff alleged she met Gibbons at the property on March 9, and that the first question he asked was her age. She claimed he told her not to make any repairs until he could send someone to estimate the damages to dental equipment in the dentist's office where the pipes apparently burst. Plaintiff claimed she received a letter from Gibbons on March 14 requesting additional information regarding the claim. Because Gibbons "forgot" to provide her his email address, she was forced to send leases and PSE&G bills to him by fax. Plaintiff objected to Gibbons' failure to communicate by email as she knew it was "the only way to moving all the procedures very quickly."

Plaintiff alleged she received a letter from Gibbons on April 11, with questions about the information previously provided. Plaintiff alleged the letter "only Proved that he did not know how to read [her] 2 letters, [her] PSEG bills and [her] leases." She sent the exchange of correspondence to defendant Nardulli, president of IAC, seeking assistance. Nardulli responded by email, but ultimately "only repeated Mr. Gibbons' funny questions. As if he also did not know how to read [her] 2 letters, [her] PSEG bills and [her] leases."

Plaintiff forwarded her exchange with Nardulli to Guard for assistance. Her letter was apparently referred to Capstone, because she claimed to have received a letter from a Mr. Carney of Capstone on April 21. She forwarded all of her emails to Carney, along with a

warning [to] all parties about if [she] cannot received \$21,008.40 property damages & rental damages fees before May 10, 2015 . . . [t]hen [she would have] to sue Mr. Nardulli, Mr. Gibbons & IAC for Fraud and Discriminating me as a Disabled Old Chinese Woman for 8 counts of \$20,000,000 — damages. No Matter they can sue Capstone & Guard Co. as the third party plaintiffs or not?

Making good on her threat, plaintiff filed an eight-count complaint in the Law Division on May 27 asserting the facts set forth here, and claiming "[a]ll the Parties only can see me and discriminating me as a Multiple Disabled, Old, Chinese Woman.

That's why they all dared repeatedly refused to answer my issues." The complaint sets forth claims alleging defendants violated 42 U.S.C.A. § 1981, 42 U.S.C.A. § 1983, the Law Against Discrimination, the constitutions of the United States and the State of New Jersey and asserts claims for fraud and negligence. Plaintiff seeks "discrimination damages" of \$20,000,000 plus \$21,008.40 in "property claim damages," along with punitive damages, interest, costs of suit and attorney's fees.

Defendants filed a motion to dismiss in lieu of answer asserting the complaint failed to state a claim upon which relief could be granted. Plaintiff sent an email to the court requesting that it deny defendants' "FAKE Motion on 08/07/2015 WITHOUT ANY ORAL argument." Plaintiff argued she set forth in her complaint, above the jury demand, "very clearly [a]ll the rules and laws" on which she relied. She maintained that because defendants' motion relied only on her complaint, "[her] best proving document," that either counsel for defendants "FAILED to read [her] complaint very carefully . . . OR he is intentionally to file a FAKE Motion to dismiss my L-3126-15 . . . UNLAWFULLY!"

The court granted defendants' motion dismissing the complaint without prejudice on August 20, 2015. Plaintiff moved for reconsideration advising that she had already warned

defendants' counsel to "correct [the court's] 08/20/15 unlawful order and [that] they should settle with [her] at once[,] [t]o avoid [her] reports to ACJC and Attorney Ethical Committee of Camden County." The court denied the motion, resulting in the order from which plaintiff appeals. In a four-page written statement of reasons, the court carefully explained the law and the reasons why plaintiff's complaint failed to plead "sufficient and essential facts" necessary to support the causes of action plaintiff put forth and thus that reconsideration was not appropriate.

Plaintiff appeals, claiming she used "the same laws same counts" as in a case filed by the ACLU on behalf of three African American minors against a municipality alleging race discrimination, unlawful search and detention and negligence, which was settled for over \$59,000. Plaintiffs in that case alleged police officers "searched and berated the boys while they told the boys' three white friends to go home."

Unfortunately, the model plaintiff used for her complaint involved a situation utterly unlike the one she complains of, the failure of the insurance adjuster retained by her insurance company to recommend payment of her property damage claim. Moreover, plaintiff's complaint does not explain the connection between her age, sex, disability status or national origin and

the denial of her insurance claim, what duty defendants owed her or why the adjuster's actions constituted fraud. As the Law Division judge explained, plaintiff's membership in a protected class is not enough to establish the causes of action she has asserted against defendants.

Because the facts as alleged in plaintiff's complaint do not state a cause of action under 42 U.S.C.A. § 1981 or § 1983, N.J.S.A. 10:5-4, and she nowhere explains what duty defendants owed her, how it was breached or what material misrepresentation they made and how she relied upon it, we agree with the Law Division that her complaint was properly dismissed without prejudice. See Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 753 (1989). We affirm substantially for the reasons expressed in the court's written opinion of October 1, 2015.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION