SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1901-16T2

MICHAEL MARTIN,

Plaintiff-Appellant,

v.

CONIFER-LECHASE CONSTRUCTION, LLC, CONIFER REALTY, LLC,

Defendants-Respondents.

Submitted October 24, 2017 – Decided November 14, 2017

Before Judges Reisner and Mayer.

On appeal from Superior Court of New Jersey, Law Division, Civil Part, Burlington County, Docket No. L-2649-15.

Dennis E. Block, attorney for appellant.

Marshall Dennehey Warner Coleman & Goggin, attorneys for respondents (Walter F. Kawalec, III, on the brief).

PER CURIAM

Plaintiff Michael Martin appeals from a December 2, 2016 order granting summary judgment, dismissing his amended complaint on statute of limitations grounds. We review the trial court's

summary judgment order de novo. See Davis v. Brickman Landscaping, Ltd., 219 N.J. 395, 405 (2014). Likewise, we owe no deference to a trial court's legal interpretations. Manalapan Realty, L.P. v. Manalapan Twp. Comm., 140 N.J. 366, 378 (1995). After reviewing the record with those standards in mind, we affirm for the reasons cogently stated by Judge Aimee R. Belgard in her supplemental letter opinion dated February 10, 2017. Plaintiff's appellate arguments are without sufficient merit to warrant additional discussion beyond the following brief comments. R. 2:11-3(e)(1)(E).

Plaintiff was employed by Gary F. Gardner, Inc. to perform inspections and correct punch-list items at an assisted living facility that was under construction. Conifer-LeChase Construction, Inc. (LeChase) was building the facility and Conifer Realty, Inc. (Conifer) was in charge of maintenance. Plaintiff slipped and fell while working at the facility on November 25, 2013. He claimed that someone employed by Conifer had used the wrong kind of wax on the floor. Plaintiff admitted at his deposition that, at the time of his fall, he knew the name of his employer and he knew the identities of the construction contractor and the maintenance company. In fact, he filed a workers' compensation claim against Gary F. Gardner, Inc. in 2014.

Almost two years after the accident, as the statute of limitations (SOL) was about to expire, plaintiff filed a complaint naming Gary F, Gardner, Inc., and "John Doe's (1-4)" as defendants. He did not file an amended complaint, naming LeChase and Conifer as defendants, until after the SOL had expired. Nor did he serve either of those defendants with the original complaint before the SOL expired.

Judge Belgard concluded that plaintiff was not entitled to rely on the relation-back doctrine or the fictitious pleading rule. See R. 4:9-3; R. 4:26-4. On this appeal, plaintiff solely relies on the relation back doctrine, R. 4:9-3. However, there is no evidence that LeChase and Conifer had notice of plaintiff's lawsuit within the SOL. See R. 4:9-3(1). Further, plaintiff admitted that, at the time the accident occurred, he knew both parties' identities, and their roles at the construction site. Plaintiff also admitted that he knew, prior to the accident, that a Conifer employee had used the wrong wax on the floor. There is no legally competent evidence in the record explaining why he did not name both defendants in the original complaint.

Affirmed.