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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-3647-16T2

WILLIAM FREEMAN,

Plaintiff-Appellant,

v.

WILLIAM J. RUSH, ESQ.,

Defendant-Respondent.

Submitted May 8, 2018 – Decided May 16, 2018

Before Judges Fisher and Fasciale.

On appeal from Superior Court of New Jersey,
Law Division, Cape May County, Docket No. L-
0420-16.

William Freeman, appellant pro se.

William J. Rush, respondent pro se.

PER CURIAM

Plaintiff William Freeman appeals an order that dismissed, on res judicata grounds, the second lawsuit he filed against defendant William J. Rush, Esq. We find no error and affirm.

Freeman's first suit against Rush – filed in 2013 – concerned the sale to Rush's client of Cape May property owned by Freeman

and his ex-wife. Freeman then alleged that Rush improperly disbursed the sales proceeds; Rush responded that he followed the directions of the attorney representing Freeman's ex-wife, who was authorized to sell the property. In 2014, Rush successfully moved to dismiss that action because Freeman failed to serve an affidavit of merit required by N.J.S.A. 2A:53A-27.


Claiming the Office of Attorney Ethics (OAE) determined in 2016 that Rush engaged in misconduct regarding the Cape May transaction,¹ Freeman commenced this second action, again alleging Rush did not properly disburse the sales proceeds. And, again, Rush moved for dismissal. In finding the dismissal with prejudice of the first action was an adjudication on the merits, N.J.S.A. 2A:53A-29, "as if the order had been entered after trial," Mortgageling Corp. v. Commonwealth Land Title Ins. Co., 142 N.J. 335, 346 (1995) (quoting Gambocz v. Yelencsics, 468 F.2d 837, 840 (3d Cir. 1972)), and that the second action was based on the same events, sought the same relief, and rested on essentially the same facts and evidence as the first, the motion judge properly applied

¹ The record on appeal includes an incomplete copy of the OAE's complaint against Rush; the portion that refers to the closing in question does not appear to encompass Freeman's allegations and seems to criticize Rush only with regard to a few very minor disbursements.

the doctrine of res judicata, Wadeer v. N.J. Mfrs. Ins. Co., 220
N.J. 591, 606-07 (2015), in dismissing the complaint.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION