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**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0693-20**

**ANTHONY J. TESTA, and
ANTHONY J. TESTA, executor
for the estate of ROSE MARIE A.
TESTA,**

Plaintiffs-Appellants,

v.

**STATE OF NEW JERSEY,
N.J. DEPARTMENT OF THE
TREASURY, TREASURER,
STATE OF NEW JERSEY,
N.J. UNCLAIMED PROPERTY
ADM. ADMINISTRATOR, and N.J.
UNCLAIMED PROPERTY
ADM.,**

Defendants-Respondents.

Submitted February 14, 2022 – Decided April 20, 2022

Before Judges Sumners and Vernoia.

On appeal from the Superior Court of New Jersey,
Chancery Division, Ocean County, Docket No. L-1427-
20.

Anthony J. Testa, appellant pro se.

Matthew J. Platkin, Acting Attorney General, attorney for respondent (Sookie Bae-Park, Assistant Attorney General, of counsel; Timothy M. Kawira, Deputy Attorney General, on the brief).

PER CURIAM

Plaintiff Anthony J. Testa appeals from a July 24, 2020 order dismissing his complaint and denying his request for injunctive relief arising from what he claimed was the failure of defendants State of New Jersey, New Jersey Department of the Treasury, the New Jersey Treasurer, the New Jersey Unclaimed Property Administrator, and the New Jersey Unclaimed Property Administration to turn over to him monies to which he claimed he was entitled under the Uniform Unclaimed Property Act (UUPA), N.J.S.A. 46:30B-1 to -109. Plaintiff also appeals from an October 16, 2020 order denying his motion for reconsideration of the July 24, 2020 order. We affirm.

I.

Plaintiff filed a verified complaint and order to show cause in the Law Division asserting he suffered from serious and ongoing financial woes due to his inability to obtain monies that had escheated from his deceased parents' assets, accounts, benefits, and properties to the New Jersey Unclaimed Property Administration under the UUPA, and that belonged to him as their sole heir.

The complaint detailed plaintiff's alleged efforts to obtain the monies from the New Jersey Unclaimed Property Administration, including his communications with the administration's staff, his requests for the forms required to obtain the monies, and his receipt of a "claims packet" on June 3, 2020, that identified the investigator assigned to his claim.

Plaintiff alleged he completed the claims documentation on June 11, 2020, and returned it to the Unclaimed Property Administration via registered mail that day. The documentation identified eleven separate unclaimed properties, with a total value of \$590,728.14, to which plaintiff asserted he was entitled. The complaint further alleged defendant received a June 11, 2020 email confirmation stating his claim would be reviewed within five to seven days.

The complaint, which is dated June 16, 2020, five days after plaintiff submitted his claims documentation to the Unclaimed Property Administration, further alleges plaintiff would suffer "[i]rreparable [h]arm." Although not alleged directly or expressly, plaintiff's claim of irreparable harm appears based on the contention he was entitled to an immediate return of the monies for which he submitted his claims documentation. Plaintiff alleged he suffered irreparable harm because the monies were necessary and essential to his "means of subsistence," including his need to pay for food, clothing, utilities, housing,

laundry, dry cleaning, medical and dental expenses, transportation, insurance, recreation, and postage. Plaintiff also claimed the failure of the Unclaimed Property Administration to immediately refund the monies would adversely affect his health, result in a loss of property and evidence, violate his First Amendment freedoms, and violate his due process rights.

The complaint also alleged plaintiff's entitlement to the monies was settled as a matter of law because the funds escheated to the Unclaimed Property Administration from various accounts held by his deceased parents. Plaintiff further alleged he had a reasonable probability of success on the merits of his claimed entitlement to an immediate turn over of the monies because there was no dispute about the title to the monies, and the balance of the equities favored granting the relief sought in the complaint.

The complaint sought injunctive relief directing that defendants immediately pay the monies sought in plaintiff's claims documentation. The complaint also sought production of defendants' records relating to the escheatment of plaintiff's parents' property, and an accounting.

On June 19, 2020, the court entered an order requiring defendants show cause on July 24, 2020, why the Unclaimed Property Administration should not be directed to pay plaintiff the monies to which he claimed entitlement,

investigate the amounts due plaintiff, and report any third-party interference "involv[ing] federal agents, officers, or employees."¹ The order included a schedule for the filing of defendants' opposition papers and plaintiff's reply.

In accordance with the schedule set forth in the order to show cause, defendants filed a motion to dismiss the complaint for failure to state a claim upon which relief may be granted. See R. 4:6-2(e). Defendants asserted the court lacked jurisdiction over the claim asserted in the complaint and, in the alternative, that venue should be transferred from Ocean County to Mercer County. Defendants also filed a brief and a certification from the Unclaimed Property Administrator in opposition to the order to show cause and in support of their motion. Plaintiff filed a detailed brief in opposition to defendants'

¹ The reference to "federal agents, officers, or employees" is founded on plaintiff's claim unnamed "[f]ederal tortfeasors obstructed [his] efforts to recover the property," "stalked [him] when he used the post office to check for the claims packet" from the Unclaimed Property Administration, "had a habit of stealing mail," and "were stalling action" by the Unclaimed Property Administration. In the complaint, plaintiff noted his concern with interference by the purported federal tortfeasors by claiming that when he spoke to the Unclaimed Property Administration's staff to follow-up about his claim, he asked if the staff person "was a FBI or CIA agent," and "she replied using a negative pregnant that she was not FBI [and] such a tone of voice to communicate that she was CIA." It is unnecessary to address the claims made against the alleged federal tortfeasors because plaintiff did not identify any federal tortfeasors as defendants, and there are no causes of action asserted against any purported federal tortfeasors, in the complaint.

motion in accordance with the schedule set forth in the court's June 19, 2020 order to show cause.

The court heard argument on plaintiff's order to show cause and defendants' motion to dismiss the complaint. In a detailed bench opinion, the court first addressed plaintiff's request for injunctive relief—primarily in the form of an order directing that the Unclaimed Property Administration make immediate payment of the monies he asserted were due to him—under the standard set forth in Crowe v. De Gioia, 90 N.J. 126 (1982). The court found plaintiff did not demonstrate injunctive relief was required to prevent irreparable harm because his "primary application is for the return of certain funds[,] and economic losses, like those claimed by plaintiff, do not constitute "irreparable harm."

The court also determined plaintiff failed to establish "that the law, although well settled[,] supports his claim." The court noted it would address issues related to the viability of plaintiff's claim in its discussion of defendants' motion to dismiss the complaint, and concluded plaintiff failed to demonstrate "a substantial likelihood of success on the merits." The court also found the balance of the hardships weighed against granting the injunctive relief sought in the complaint because the UUPA afforded the Unclaimed Property

Administration 120 days to complete a review of a claim for unclaimed property and that time had not passed since plaintiff submitted his claims documentation on June 11, 2020. Based on those findings, the court denied plaintiff's request for a preliminary injunction.

The court then summarized the allegations in the complaint, noting plaintiff alleged he submitted the claims documentation to the Unclaimed Claims Administration on June 11, 2020, and filed his complaint five days later, on June 16, 2020. The court also reviewed the requirements for submission of a claim under the UUPA, and determined the claims asserted in the complaint were not ripe for adjudication because N.J.S.A. 46:30B-78 afforded the Unclaimed Property Administration 120 days to consider and advise a claimant of a determination on a properly filed claim, and that time had not yet expired following plaintiff's submission of his claim on June 11, 2020.

The court also determined it lacked jurisdiction over the claims in the complaint because appeals from any action or inaction by a State administrative agency must be made by direct appeal to the Appellate Division under Rule 2:2-3(a)(2). See Infinity Broad. Corp. v. N.J. Meadowlands Comm'n, 187 N.J. 212, 223 (2006); see also Prado v. State, 186 N.J. 413, 422-23 (2006). The court also noted the UUPA provides "[a] person whose claim has been denied by the

administrator in whole or in part may appeal the final decision to the Appellate Division of the Superior Court of New Jersey." N.J.S.A. 46:30B-84.

The court further determined plaintiff's complaint failed to state a claim upon which relief may be granted and plaintiff failed to exhaust his administrative remedies before the Unclaimed Property Administration. The court rejected plaintiff's argument it could not properly consider defendants' motion because the motion was supported by the certification of the Unclaimed Property Administrator, it therefore constituted a summary judgment motion under Rule 4:46; and it was not filed with the required twenty-eight-days-notice to plaintiff under Rule 4:46-1. The court concluded plaintiff's claim was properly dismissed under Rule 4:6-2(e) without regard to the certification, and therefore plaintiff's procedural arguments under Rule 4:46 were of no moment. The court entered a July 24, 2020 order denying plaintiff's request for injunctive relief and dismissing plaintiff's complaint with prejudice.

Plaintiff filed a motion for reconsideration of the July 24, 2020 order. In support of the motion, plaintiff submitted a brief asserting a series of arguments that had not been presented to the motion court on defendants' motion to dismiss

the complaint.² For example, plaintiff argued for the first time that: the provisions of the UUPA were unconstitutional; an "Unclaimed Property Declaration/Release and Indemnification Agreement" he had been asked to sign was unconstitutional and constituted a "rule" that was not properly adopted pursuant to the New Jersey Administrative Procedure Act (NJAPA), N.J.S.A. 52:14B-1 to -31; the "Unclaimed Property Declaration/Release and Indemnification Agreement" violated the Truth-in-Consumer Contract, Warranty, and Notice Act, N.J.S.A. 56:12-14 to -18; the Unclaimed Property Administration was estopped from requesting certain documents and identification, and the requests constituted a "rule" that was not properly adopted under the NJAPA; the Unclaimed Property Administration unconstitutionally delayed turning over the funds and the procedures employed by the Unclaimed Property Administration constituted "rules" that were not properly adopted

² In plaintiff's initial brief submitted in support of his request for entry of the order to show cause, plaintiff claimed he was entitled to the funds held by the Unclaimed Property Administration and that his verified complaint established an entitlement to injunctive relief directing the immediate turnover of the funds under the Crowe standard. In his brief in opposition to defendants' motion to dismiss the complaint, plaintiff argued the motion should be denied because it constituted a summary judgment motion and was not submitted in accordance with Rule 4:46, the Chancery Division had jurisdiction over his claimed entitlement to the funds held by the Unclaimed Property Administration, and defendants' motion in the alternative, that venue should be transferred to Mercer County, should be denied.

under the NJAPA; and, in their motion to dismiss the complaint, defendants did not "rule out" numerous causes of action, including for replevin, conversion, unconstitutional taking, declaratory relief, and "other claims."

During argument on the reconsideration motion, plaintiff informed the court that following the filing of his motion, he received \$626,884.24 from the Unclaimed Property Administration.³ The court noted that actions taken subsequent to issuance of the July 24, 2020 order were not relevant to its determination of the reconsideration motion, and that plaintiff had the burden of demonstrating the court's decision was based on a palpably incorrect or irrational basis or that the court did not either consider or failed to appreciate the significance of probative competent evidence. The court determined plaintiff failed to sustain that burden and instead attempted only to reargue the motion to dismiss the complaint.

The court denied plaintiff's reconsideration motion and entered an October 16, 2020 order memorializing its decision. This appeal followed.

³ As noted, the claims documentation plaintiff asserted in his complaint he had submitted to the Unclaimed Property Administration sought the return of property totaling \$590,728.14.

II.

In reviewing the grant of a motion to dismiss a complaint for failure to state a cause of action de novo, we apply the same standard under the rule that governed the motion court. Frederick v. Smith, 416 N.J. Super. 594, 597 (App. Div. 2010). We consider only "the legal sufficiency of the facts alleged on the face of the complaint[.]" Nostrame v. Santiago, 213 N.J. 109, 127 (2013) (quoting Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989)).

The issue is simply "whether a cause of action is suggested by the facts." Velantzas v. Colgate-Palmolive Co., 109 N.J. 189, 192 (1988). We "search[] . . . the complaint in depth and with liberality to ascertain whether the fundament of a cause of action may be gleaned even from an obscure statement of claim, opportunity being given to amend if necessary." Printing Mart-Morristown, 116 N.J. at 746 (quoting Di Cristofaro v. Laurel Grove Mem'l Park, 43 N.J. Super. 244, 252 (App. Div. 1957)). In examining the relevant factual allegations in plaintiff's complaint, we treat them as true and extend to plaintiff all favorable inferences. See Craig v. Suburban Cablevision, Inc., 140 N.J. 623, 625-26 (1995).

Here, the court dismissed plaintiff's complaint based on its determinations the complaint failed to state a claim upon which relief may be granted, the court lacked jurisdiction, and the challenge to the Unclaimed Property Administration's alleged

failure to immediately turn over the funds to which plaintiff claimed he was entitled was not ripe for adjudication because the UUPA provides a decision on claim must be made within 120 days of a completed claim submission, and that time had not yet expired when plaintiff filed his complaint. We find no error in the court's dismissal of the complaint under Rule 4:6-2(e).

The UUPA was enacted "for the purpose of establishing comprehensive regulation of access to unclaimed property." Twiss v. State, Dep't of Treasury, 124 N.J. 461, 476 (1991) (Stein, J., dissenting). Under the UUPA, "title to the unclaimed property remains with the owner and does not vest in the State." Haven Sav. Bank v. Zanolini, 416 N.J. Super. 151, 165 (App. Div. 2010). "[T]he State only assumes custody of the intangible property until the owner or his or her successors assert a claim that is verified and allowed." Clymer v. Summit Bancorp., 171 N.J. 57, 63 (2002) (emphasis added) (quoting Clymer v. Summit Bancorp., 320 N.J. Super. 90, 98 (Ch. Div. 1998)).

"[A]ll unclaimed funds are held by the Treasurer as trustee for the public interest," and "when a claim is verified and paid, the Treasurer pays interest for the period during which the monies were in state custody. N.J.S.A. 46:30B-79." Ibid. (quoting Clymer, 320 N.J. Super. at 99). As our Supreme Court has explained, "the public policy of the State is in favor of the custodial taking of abandoned

property or unclaimed property by the State Treasurer [B]ecause of the remedial effect of the custodial scheme, the prevailing custodial statutes have been given liberal construction in favor of the State and as to the position of any stakeholder or obligor." Id. at 67 (first alteration in original) (quoting Safane v. Cliffside Park Borough, 5 N.J. Tax 82, 88 (Tax Ct. 1982)).

Plaintiff's complaint described his interactions with the Unclaimed Property Administration's staff, and his submission of his claim form. Read broadly and indulgently, the complaint alleged the Unclaimed Property Administration failed to turn over properly and promptly monies to which plaintiff claimed he was entitled. In asserting his claim, plaintiff ignored the UUPA provides the mechanism for recovery of unclaimed property that is held in trust by the State. Under the statutory scheme, the Unclaimed Property Administration has 120 days following the filing of a claim to provide written notice of whether the claim is denied in whole or in part. N.J.S.A. 46:30B-78. That time allows the Unclaimed Property Administration an opportunity to fulfill its obligation to verify and render its decision on a claim. See Clymer, 171 N.J. at 63.

Based on the allegations in the complaint, plaintiff submitted his claim on June 11, 2020, and filed his complaint five days later. When the court heard defendants' motion to dismiss the complaint on July 24, 2020, the Unclaimed

Property Administration had plaintiff's claim for only thirty-eight days and was entitled to an additional eighty-two days to attempt to verify and then decide the validity of plaintiff's claim under the UUPA. See N.J.S.A. 46:30B-78.

Plaintiff cites to no legal authority establishing defendants had a legal duty to verify and decide plaintiff's claim more quickly than required under the UUPA. And, as noted, N.J.S.A. 46:30B-78 expressly grants the Unclaimed Property Administration 120 days to complete its obligation as trustee of the property to verify a claim and issue its determination. For those reasons, plaintiff's complaint, which merely alleged defendants failed to turn over the property for which he filed the June 11, 2020 claim under the UUPA as quickly as he would have liked, did not state a claim upon which relief may be granted. We affirm the court's order dismissing the complaint for that reason alone.

Moreover, the motion court properly recognized that, in addition to plaintiff's failure to assert a legally cognizable cause of action, the complaint should be dismissed because plaintiff's putative cause of action was not yet ripe for adjudication. "A case's ripeness depends on two factors: '(1) the fitness of issues for judicial review and (2) the hardship to the parties if judicial review is withheld at this time.'" Comm. to Recall Robert Menendez from the Office of the U.S. Senate v. Wells, 204 N.J. 79, 99 (2010) (quoting K. Hovnanian Cos. of N.

Central Jersey, Inc. v. N.J. Dep't of Env'tl. Prot., 379 N.J. Super. 1, 9 (App. Div. 2005)). "To determine if a case is ripe for judicial review, the court must evaluate: 1) the fitness of the issues for judicial decision, and 2) the hardship to the parties caused by withholding court consideration." Garden State Equality v. Dow, 434 N.J. Super. 163, 189 (Law Div.), certif. granted, 216 N.J. 1, stay denied, 216 N.J. 314 (2013).

Under the first prong of the standard, a case is fit for review if the "issues in dispute are purely legal, and thus, appropriate for judicial resolution without developing additional facts." Ibid. Plaintiff's putative cause of action does not satisfy the standard because its resolution did not present a purely legal issue but instead required additional factual development to determine the validity of plaintiff's claim—a task the Unclaimed Property Administration was otherwise performing in its effort to verify plaintiff's claim.

Under the second prong of the ripeness standard, "courts can assume jurisdiction over a claim only if there is a 'real and immediate' threat of enforcement or harm that would affect the plaintiff." Garden State Equality v. Dow, 434 N.J. Super. 163, 189 (Law Div. 2013) (quoting K. Hovnanian Cos., 379 N.J. Super. at 10). The record also does not support a finding plaintiff suffered any harm. Plaintiff's complaint alleged harm only by the purported delay in the turnover of the

monies for which he submitted his claim. The UUPA, however, requires the payment of interest for the period the State holds the property, N.J.S.A. 46:30B-79, and, therefore, plaintiff was guaranteed compensation in the form of interest for the period following the submission of his claim and the Unclaimed Property Administration's determination of the claim.

Applying the ripeness standard to plaintiff's putative claim in the complaint, and because he failed to satisfy either prong of the standard, we agree with the motion court that plaintiff's complaint failed to present a cause of action ripe for adjudication. See, e.g., K. Hovnanian Cos., 379 N.J. Super. at 10 (affirming dismissal of complaint on ripeness grounds where issues pertinent to the matter were "not yet resolved at the agency level," the agency proceedings were "in progress," and the agency's disposition of the issues might render "further proceedings" before the court unnecessary). The court also correctly determined plaintiff's complaint was barred because he failed to exhaust his administrative remedies.

"[T]he exhaustion of remedies requirement is a rule of practice designed to allow administrative bodies to perform their statutory functions in an orderly manner without preliminary interference from the courts." Brunetti v. Borough of New Milford, 68 N.J. 576, 588 (1975). "Exhaustion of administrative remedies before resort to the courts is a firmly embedded judicial principle. This principle requires

exhausting available procedures, that is, 'pursuing them to their appropriate conclusion and, correlatively . . . awaiting their final outcome before seeking judicial intervention.'" Garrow v. Elizabeth Gen. Hosp. & Dispensary, 79 N.J. 549, 558-59 (1979) (alteration in original) (citations omitted) (quoting Aircraft & Diesel Equip. Corp. v. Hirsch, 331 U.S. 752, 767 (1947)). The Court has explained

the doctrine of exhaustion of administrative remedies serves three primary goals: (1) the rule ensures that claims will be heard, as a preliminary matter, by a body possessing expertise in the area; (2) administrative exhaustion allows the parties to create a factual record necessary for meaningful appellate review; and (3) the agency decision may satisfy the parties and thus obviate resort to the courts.

[Atl. City v. Laezza, 80 N.J. 255, 265 (1979).]

However, "[t]he exhaustion doctrine is not an absolute." Garrow, 79 N.J. at 561. "Exceptions exist when only a question of law need be resolved; when the administrative remedies would be futile; when irreparable harm would result; when jurisdiction of the agency is doubtful; or when an overriding public interest calls for a prompt judicial decision." Ibid. (citations omitted).

Here, plaintiff initiated the administrative process for obtaining the monies he alleged were due to him by filing his June 11, 2020 claim with the Unclaimed Property Administration. The statute vests the authority in the Treasury Department to act as the trustee of unclaimed property and to determine claims for unclaimed

property. Plaintiff initiated the process and submitted his claim as permitted by N.J.S.A. 46:30B-77(a). The process plaintiff initiated was ongoing but not complete when he filed his complaint and the court considered defendants' motion to dismiss. Presented with those circumstances, and because none of the exceptions to the exhaustion of administrative remedies doctrine applies, see *ibid.*, the court correctly dismissed the complaint based on plaintiff's failure to exhaust his administrative remedies, see generally K. Hovanian Cos., 379 N.J. Super. at 8-9.

We further conclude, as did the motion court, that proper review of any action or inaction of defendants concerning plaintiff's claim for return of unclaimed property under the UUPA lies in this court, and not the Law Division. See *id.* at 9; see also N.J.S.A. 46:30B-84; R. 2:2-3(a)(2). As we have noted, plaintiff must exhaust his administrative remedies and obtain a final decision concerning his claim from defendants. As a result, plaintiff's right to a review of defendants' handling of his claim, or their grant or denial of his claim, as alleged in his complaint is through an appeal from defendants' final agency decision, and not in an action in the Law Division. We therefore affirm the court's order dismissing the complaint with prejudice.⁴

⁴ We recognize dismissals under Rule 4:6-2(e) are ordinarily without prejudice. See Printing Mart-Morristown, 116 N.J. at 772; Pressler & Verniero, Current

Plaintiff also claims the court erred by denying his motion for reconsideration.

We are not persuaded.

"Motions for reconsideration are granted only under very narrow circumstances" Fusco v. Bd. of Educ. of Newark, 349 N.J. Super. 455, 462 (App. Div. 2002). Reconsideration should be granted only in those cases where "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." Ibid. (quoting D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990)).

We review the trial court's denial of reconsideration for an abuse of discretion. Cummings v. Bahr, 295 N.J. Super. 374, 389 (App. Div. 1996). A

N.J. Court Rules, cmt. 4.1.1 on R. 4:6-2(e) (2020). We find no abuse of the court's discretion here in dismissing the complaint with prejudice because following plaintiffs' exhaustion of his administrative remedies, he must appeal from defendants' final agency decision to this court, and therefore the Law Division did not have, and will not have, jurisdiction to consider any challenge to defendants' decision. Thus, any amendment to plaintiff's complaint challenging defendants' handling or disposition of the claim he submitted under the UUPA would not vest the Law Division with jurisdiction over the issues presented in his initial complaint. See Santiago, 213 N.J. at 128 (affirming dismissal under Rule 4:6-2(e) where plaintiff conceded he had no additional facts supporting the asserted cause of action); Johnson v. Glassman, 401 N.J. Super. 222, 246-47 (App. Div. 2008) (affirming dismissal of complaint with prejudice under Rule 4:6-2(e) where plaintiffs offered no basis suggesting an ability to cure the defects in their complaint).

court abuses its discretion when its "decision [is] made without a rational explanation, inexplicably depart[s] from established policies, or rest[s] on an impermissible basis." United States v. Scurry, 193 N.J. 492, 504 (2008) (citing Flagg v. Essex Cty. Prosecutor, 171 N.J. 561, 571 (2002)).

We discern no basis in the record to conclude the court abused its discretion by denying plaintiff's reconsideration motion. As the court correctly observed, plaintiff did not make any showing the court's dismissal of the complaint was palpably incorrect, irrational, or based on a failure to consider or appreciate competent evidence. D'Atria, 242 N.J. Super. at 401. To the contrary, plaintiff's motion was founded on purported facts and numerous arguments and claims that were available to plaintiff when the court decided defendants' dismissal motion and that plaintiff offered for the first time in support of his reconsideration motion. The court did not abuse its discretion by denying the reconsideration motion under those circumstances. See Medina v. Pitta, 442 N.J. Super. 1, 18 (App. Div. 2015) ("Filing a motion for reconsideration does not provide the litigant with an opportunity to raise new legal issues that were not presented to the court in the underlying motion."); Palombi v. Palombi, 414 N.J. Super. 274, 289 (App. Div. 2010) (explaining movant's assertions of fact known "prior to entry of the order were not an appropriate basis for reconsideration").

We have carefully considered the many arguments included in plaintiff's merits and reply briefs. To the extent we have not addressed any of them directly, we find they are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

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



CLERK OF THE APPELLATE DIVISION