

**NOT FOR PUBLICATION WITHOUT THE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-2670-20
A-3264-20

THE ESTATE OF BEVERLY
E. GELBER,

Plaintiff-Appellant,

v.

DOUGLAS A. GELBER,

Defendant-Respondent.

Submitted May 17, 2022 – Decided May 27, 2022

Before Judges Fisher and DeAlmeida.

On appeal from the Superior Court of New Jersey, Law
Division, Passaic County, Docket No. L-2904-19.

Kenneth L. Baum, attorney for appellant.

Stephen L. Ritz, attorney for respondent.

PER CURIAM

The Estate of Beverly E. Gelber filed a complaint against defendant
Douglas A. Gelber for the collection of a debt that defendant claims was

released. After defendant filed an answer, the matter was scheduled for mandatory arbitration under Rule 4:21A. At the conclusion of the telephonic arbitration on September 15, 2020, the arbitrator advised counsel that she was no-causing plaintiff's suit and would issue a written arbitration award to that effect. The award was electronically filed that same day. When more than thirty days elapsed from the filing of the award, the court sua sponte dismissed the action.

Plaintiff unsuccessfully moved for relief from the dismissal order and then filed these two appeals, which we have consolidated, from the order denying the motion to vacate and from the dismissal order itself. We reverse both orders.

There appears to be no dispute that the award was electronically posted on September 15, 2020, and no dispute that plaintiff did not demand a trial de novo within thirty days of that date. But it is also undisputed that even though counsel was verbally advised by the arbitrator of the outcome, "the court" never served the parties with the arbitration award. This is critical because it is not the arbitrator but "the court" that is obligated by Rule 4:21A-5 to "provide a copy [of the award] to the parties." The time for an aggrieved party to demand a trial de novo under Rule 4:21A-6 is not triggered until "the court" provides the parties with the award under Rule 4:21A-5.

The order of dismissal and the order denying plaintiff's motion for relief from the order of dismissal are reversed and the matter remanded for a trial de novo. We do not retain jurisdiction.

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



CLERK OF THE APPELLATE DIVISION