

EXHIBIT

A

SUPREME COURT OF NEW JERSEY
C-324 September Term 2018
081618

OneWest Bank, FSB,
Plaintiff-Respondent,
v.
Errol Jefferson, his heirs,
devisees, and personal
representatives, and his, her,
their successors in right,
title and interest, and Mrs.
Jefferson, wife of Errol
Jefferson, Hamilton Park
Healthcare Center, the State
of New Jersey and United
States of America,
Defendants,
and
Joann Jefferson,
Defendant-Petitioner.

FILED

NOV 16 2018

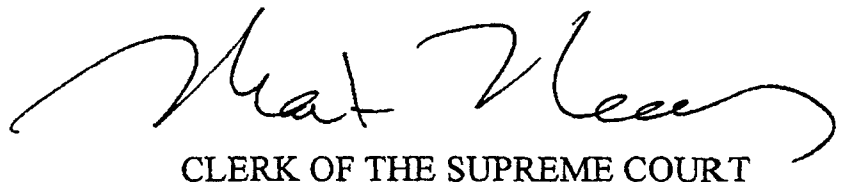

CLERK

ORDER

A petition for certification of the judgment in A-005197-16
having been submitted to this Court, and the Court having considered the
same;

It is ORDERED that the petition for certification is denied, with costs.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at Trenton, this
13th day of November, 2018.


CLERK OF THE SUPREME COURT

EXHIBIT

B

NOT FOR PUBLICATION WITHOUT THE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-5197-16T1

ONEWEST BANK, FSB,

Plaintiff-Respondent,

v.

ERROL JEFFERSON, his heirs, devisees,
and personal representatives, and
his, her, their successors in right,
title and interest, and MRS. JEFFERSON,
wife of ERROL JEFFERSON, HAMILTON PARK
HEALTHCARE CENTER, THE STATE OF NEW
JERSEY and UNITED STATES OF AMERICA,

Defendants,

and

JOANN JEFFERSON,

Defendant-Appellant.

Submitted June 5, 2018 – Decided June 22, 2018

Before Judges Moynihan and Natali.

On appeal from Superior Court of New Jersey,
Chancery Division, General Equity Part, Hudson
County, Docket No. F-014293-12.

Joann Jefferson, appellant pro se.

Fein, Such, Kahn & Shepard, PC, attorneys for respondent (Douglas J. McDonough, on the brief).

PER CURIAM

This is a residential foreclosure action. Defendant Joann Jefferson appeals from the final judgment and order denying her motion to vacate that judgment. We affirm.

According to the foreclosure complaint, in 2007, Ena and Errol Jefferson¹ executed a \$175,000 promissory note to East Coast Mortgage Corp. (East Coast). The note was transferred three times by formal allonge² and ultimately held by plaintiff OneWest Bank, FSB (OneWest). As security for repayment, Ena and Errol executed a mortgage in the same amount to Mortgage Electronic Registration Systems, Inc., as nominee for East Coast. The mortgage was duly recorded. The East Coast mortgage was assigned to OneWest on May 24, 2012.

Errol defaulted on the note in January 2011 and plaintiff filed a foreclosure complaint on July 24, 2012, naming only Errol as it was correctly believed Ena died in August 2010. Errol did

¹ We refer to Ena, Errol and Joann Jefferson by their first names in the interest of clarity. We intend no disrespect by this informality.

² An allonge is "[a] slip of paper sometimes attached to a negotiable instrument for the purpose of receiving . . . indorsements." Black's Law Dictionary 92 (10th ed. 2014).

not answer the complaint and default was entered. Plaintiff agreed to vacate the default and Errol's counsel filed an answer without a single affirmative defense. After the close of discovery and less than three months before the scheduled trial date, Errol and plaintiff entered into a consent order by which Errol agreed to withdraw his contesting answer conditioned upon plaintiff refraining from moving for final judgment until December 2013.

In January 2014, Errol died. Final judgment was entered on August 6, 2014, and vacated on plaintiff's motion on September 1, 2015 to permit plaintiff to file an amended complaint. In January 2016, plaintiff filed its first amended complaint to join new judgment creditors and unknown heirs and to plead Errol's death. In May 2016, plaintiff filed a second amended complaint to add Joann as Errol's heir and described her as the "only known heir [at] law and next of kin of the decedent, E[rrrol] J[efferson]."

On July 27, 2016, default was entered against all defendants. That same day, and on two separate occasions thereafter, Joann attempted to file contesting answers. Each time the Clerk rejected the answers for various procedural irregularities and issued deficiency notices. On August 30, 2016, Joann also attempted to file a motion to vacate default. That filing was also rejected because, at the time, Errol still had an attorney of record.

On September 16, 2016, Joann moved to vacate default claiming she inadvertently failed to include the required filing fee and case information statement. Joann did not include a proposed contesting answer with her motion as required by Rule 4:43-3. On October 28, 2016, Judge Marybeth Rogers concluded that Joann had not satisfied the requirements of Rule 4:43-3 and denied the motion. She reasoned:

Here, the [c]ourt is compelled to deny [d]efendant's sought relief. Defendant has not demonstrated good cause. Defendant has certified about her mistake at filing her [a]nswer without the proper [case information statement] and filing fee. Defendant received deficiency notices from the Office of Foreclosure after the filings were made with notice to correct the mistake within ten days. Defendant did not attempt to correct her mistake and instead sent her filings to the Office of Foreclosure again. Defendant does not provide a reason as to why she did not rectify the errors. Moreover, [d]efendant has not attached her proposed [a]nswer in her [m]otion papers for the [c]ourt to determine whether there is a meritorious defense.

On May 9, 2017, plaintiff obtained final judgment for the second time. Less than a month later, Joann moved to vacate the final judgment pursuant to Rule 4:50-1. She supported her application with a non-compliant Rule 1:6-6 certification that improperly contained hearsay and speculated regarding the veracity of Ena's signature on the loan documents and her competence to execute those instruments. She also alleged numerous legal and

factual deficiencies including plaintiff's compliance with the Fair Foreclosure Act, N.J.S.A. 2A:50-53 to -73.

Judge Rogers denied Joann's motion and correctly observed that Joann's certification was not based on personal knowledge and ignored other critical facts from the extensive procedural history. The trial judge considered Joann's application pursuant to Rule 4:50-1(a) and determined she had established neither excusable neglect nor a meritorious defense:

Here, the [c]ourt declines to grant [d]efendant's relief sought. . . . The [c]ourt does not find excusable neglect. As addressed in the [c]ourt's [o]rder dated October 28, 2016, [d]efendant was notified to correct her deficiency within ten days, but instead of doing that [d]efendant sent her deficient filings again to the Office of Foreclosure on multiple occasions. Defendant provided no reasoning as to why she did not rectify the errors. Now [d]efendant seeks to vacate [f]inal [j]udgment on the same basis, which the [c]ourt has already denied. Moreover, [d]efendant lists numerous alleged meritorious defenses, however, there is no proof to substantiate these defenses and based on [d]efendant's submission as presented, these allegations are nothing more than hearsay statements.

Joann raises the following points on appeal:

POINT I

ONE WEST BANK FSB VIOLATED ALL APPLICABLE CONDITION PRECEDENTS. ONE WEST BANK FSB DID NOT FULFILL CERTAIN PRE-CONDITIONS PRIOR TO THE ONSET OF THIS FRAUDULENT FORECLOSURE

ACTION. ONE WEST BANK FSB ENGAGED IN DISREPUTABLE AND ILLICIT PRACTICES.

POINT II

ORIGINAL LENDER ENGAGED IN PREDACIOUS ABUSE IN THE ORIGINATION OF THE ALLEGED MORTGAGE TRANSACTION. ONE WEST BANK FSB SUBMITTED DEFECTIVE DOCUMENTS AS PROOF OF STANDING TO FORECLOSE AND THE TRIAL COURT ERRED IN THE PRESUMPTION OF ITS VALIDITY.

POINT III

RELIANCE ON FORGED AND FRAUDULENT EVIDENTIARY DOCUMENTS IS BRUTAL AND UNCONSCIONABLE. THE APPLICATION OF LAW TO SUCH DOCUMENTS MUST BE REVIEWED AND REVERSED.

After carefully reviewing the record in light of the written arguments advanced by the parties, we conclude that the issues presented by Joann are without sufficient merit to warrant extensive discussion in this opinion, R. 2:11-3(e)(1)(A), (E), and we affirm substantially for the reasons expressed by the trial judge in her written statements of reasons. We add the following.

Our review is governed by Rule 4:50-1, which permits a court, in its discretion, to relieve a party from a final judgment for the following reasons:

(a) mistake, inadvertence, surprise, or excusable neglect; (b) newly discovered evidence which would probably alter the judgment or order and which by due diligence could not have been discovered in time to move for a new trial under [Rule] 4:49; (c) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other

misconduct of an adverse party; (d) the judgment or order is void; (e) the judgment or order has been satisfied, released or discharged, or a prior judgment or order upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment or order should have prospective application; or (f) any other reason justifying relief from the operation of the judgment or order.

We review a trial court's grant or denial of a Rule 4:50-1 motion with substantial deference and will not reverse "unless it results in a clear abuse of discretion." U.S. Bank Nat'l Ass'n v. Guillaume, 209 N.J. 449, 467 (2012). "[A]n abuse of discretion occurs when a decision is 'made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis.'" Deutsche Bank Trust Co. Ams. v. Angeles, 428 N.J. Super. 315, 319 (App. Div. 2012) (alteration in original) (quoting Guillaume, 209 N.J. at 467-68). Here, we discern no abuse of discretion.

Rule 4:50-1 is "designed to reconcile the strong interests in finality of judgments and judicial efficiency with the equitable notion that courts should have authority to avoid an unjust result in any given case." Guillaume, 209 N.J. at 467 (quoting Mancini v. EDS ex rel. N.J. Auto. Full Underwriting Ass'n, 132 N.J. 330, 334 (1993)). Relief from a judgment pursuant to Rule 4:50-1 "is not to be granted lightly." Cho Hung Bank v. Kim, 361 N.J. Super.

331, 336 (App. Div. 2003). Rather, Rule 4:50-1 "provides for extraordinary relief and may be invoked only upon a showing of exceptional circumstances." Ross v. Rupert, 384 N.J. Super. 1, 8 (App. Div. 2006) (quoting Baumann v. Marinaro, 95 N.J. 380, 393 (1984)). Indeed, the discretionary authority afforded to the trial court under Rule 4:50-1 is to be "exercised with equitable principles in mind, and will not be overturned in the absence of an abuse of that discretion." Marder v. Realty Constr. Co., 84 N.J. Super. 313, 318 (App. Div. 1964).

In addition, "the showing of a meritorious defense is a traditional element necessary for setting aside . . . a default judgment." Pressler & Verniero, Current N.J. Court Rules, cmt. on R. 4:43-3 (2018); see also Marder, 84 N.J. Super. at 318-19. That is so because when a party has no meritorious defense, "[t]he time of the courts, counsel and litigants should not be taken up by such a futile proceeding." Guillaume, 209 N.J. at 469 (quoting Schulwitz v. Shuster, 27 N.J. Super. 554, 561 (App. Div. 1953)).

Joann does not identify the specific section of Rule 4:50-1 in which she bases her request for relief. The trial judge considered the application pursuant to Rule 4:50-1(a) and correctly determined that Joann had not demonstrated excusable neglect or a meritorious defense. For purposes of completeness,

we have reviewed the record and do not find support under any section of Rule 4:50-1, including subsection (f).

Subsection (f) is a catch-all provision that authorizes a court to relieve a party from a judgment or order for "any other reason justifying relief from the operation of the judgment or order." R. 4:50-1(f). "Because of the importance that we attach to the finality of judgments, relief under Rule 4:50-1(f) is available only when 'truly exceptional circumstances are present.'" Hous. Auth. of Morristown v. Little, 135 N.J. 274, 286 (1994) (quoting Baumann, 95 N.J. at 395). "The rule is limited to 'situations in which, were it not applied, a grave injustice would occur.'" Guillaume, 209 N.J. at 484 (quoting Little, 135 N.J. at 289).

On appeal, Joann renews the same arguments that were properly rejected by the trial court. Joann has made no showing to justify vacating the final judgment under any provision of Rule 4:50-1 and has not established a meritorious defense. As the trial judge correctly noted, Joann was not a party to the loan transaction and failed to provide competent evidence to challenge the note or mortgage. Indeed, her "certification" submitted to the trial court substantially violated Rule 1:6-6 and 1:4-4(b) as it was unsworn and based almost entirely on speculation, legal arguments and inadmissible hearsay. Further, Joann's appendix contains

unauthenticated medical records that do not appear to have been presented to the trial court and which contain inadmissible embedded hearsay. See N.J.R.E. 803(c)(6), 805, 808; Konop v. Rosen, 425 N.J. Super. 391, 402-03 (App. Div. 2012).

Finally, Joann ignores the fact that according to the foreclosure complaint, both Ena and Errol paid on the note for years before Ena died, a fact not disputed in the trial court. Further, after her death, Errol, a co-signatory to the disputed loan transaction, retained counsel and filed an answer without affirmative defenses. Facing a trial date, he further agreed to withdraw his answer in exchange for plaintiff's forbearance until December 2013. With Errol's counsel's consent, plaintiff filed an amended complaint to name additional parties, but again Errol's counsel did not challenge service, standing, default or any other element of plaintiff's prima facie case for foreclosure. See Thorpe v. Floremore Corp., 20 N.J. Super. 34, 37 (App. Div. 1952); see also Great Falls Bank v. Pardo, 263 N.J. Super. 388, 394 (Ch. Div.), aff'd, 273 N.J. Super. 542 (App. Div. 1994).

The record on appeal presents no facts from which we can conclude the trial judge clearly abused her discretion or that a grave injustice would occur if the orders under review are not vacated. Accordingly, we affirm the final foreclosure judgment as well as the order denying Joann's motion to vacate the judgment.

Affirmed.

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

A handwritten signature in dark ink, appearing to be 'JWA', is written over the text 'file in my office' and extends slightly above the line.

CLERK OF THE APPELLATE DIVISION

EXHIBIT

C

FEIN, SUCH, KAHN & SHEPARD, P.C.
SIMONE SEBASTIAN - 011312009
7 Century Drive, Suite 201
Parsippany, New Jersey 07054
(973) 536-9300
IND2261/CB
Attorney for Plaintiff

ONEWEST BANK, FSB

Plaintiff

vs.

ERROL JEFFERSON, HIS HEIRS,
DEVISEES, AND PERSONAL
REPRESENTATIVES, AND HIS, HER,
THEIR OR ANY OF THEIR SUCCESSORS
IN RIGHT, TITLE AND INTEREST, et
als.

Defendant

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-
HUDSON COUNTY

DOCKET NO.: F-14293-12

CIVIL ACTION

FINAL JUDGMENT

This matter being opened to the Court by the Law Firm of Fein, Such, Kahn & Shepard, PC, attorneys for Plaintiff, and it appearing that service of the Summons and Complaint, and Amended Complaint, if any, have been made upon the following Defendants, in accordance with the Rules of this Court, HAMILTON PARK HEALTHCARE CTR, filed a contesting answer which was deemed non-contesting by virtue of a Consent Order, filed on April 14, 2016 and signed by the Honorable Barry P. Sarkisian, P.J.Ch., and default having been entered against said Defendants, and it appearing

ERROL JEFFERSON, HIS HEIRS, DEVISEES, AND PERSONAL
REPRESENTATIVES, AND HIS, HER, THEIR OR ANY OF THEIR SUCCESSORS
IN RIGHT, TITLE AND INTEREST;



THE STATE OF NEW JERSEY;
UNITED STATES OF AMERICA;
JOANN JEFFERSON;

and the Plaintiff's obligation, mortgage and assignments of mortgage having been presented and marked as exhibits by the Court, and proofs having been submitted of the amount due on Plaintiff's mortgage, and sufficient cause appearing;

IT IS on this 9th day of May, 2017,

ORDERED AND ADJUDGED that the Plaintiff is entitled to have the sum of \$290,929.16 together with interest at the contract rate of 7.125% on \$212,947.71 being the principal sum in default, including advances, if any, from 03/01/2017 to May 9th, 2017, and lawful interest thereafter, on the total sum due plaintiff together with costs of this suit to be taxed, including a counsel fee of \$ 3059.29 raised and paid in the first place out of the mortgaged premises, The Question of priority as between the Plaintiff and the United States of America with regard to counsel fees shall await surplus money proceedings, if any; and it is further

ORDERED that the Plaintiff or its assignee or the successful purchaser at the Sheriff's Sale duly recover against the following Defendants:

ERROL JEFFERSON, HIS HEIRS, DEVISEES, AND PERSONAL REPRESENTATIVES, AND HIS, HER, THEIR OR ANY OF THEIR SUCCESSORS IN RIGHT, TITLE AND INTEREST; JOANN JEFFERSON;



and all parties holding under said Defendants, the possession of the premises mentioned and described in the said Complaint, and Amended Complaint, if any, with the appurtenances; and it is further

ORDERED AND ADJUDGED that the mortgaged premises be sold to raise and satisfy the several sums of money due, in the first place, to Plaintiff, the sum of \$290,929.16 together with contract rate and lawful interest thereon to be computed as aforesaid with the plaintiff's costs to be taxed, with lawful interest thereon, and that an execution for that purpose be duly issued out of this Court directed to the Sheriff of HUDSON County, commanding him to make sale according to law of the mortgaged premises described in the Complaint and Amended Complaint, if any, and out of the monies arising from said sale, that said Sheriff or any other Court appointed officer, attorney or special master pay in the first place, to the Plaintiff, said Plaintiff's debt, with interest thereon as aforesaid and said Plaintiff's costs with interest thereon as aforesaid, and in case more money shall be realized by the said sale then shall be sufficient to satisfy such several payments as aforesaid, that such surplus be brought into this Court to abide the further Order of this Court and that the Sheriff aforesaid make a report of the aforesaid sale without delay as required by the Rules of this Court; and it is further



ORDERED AND ADJUDGED that the Defendants in this cause, and each of them stand absolutely debarred and foreclosed of and from all equity of redemption of, in, and to said mortgaged premises described in the Complaint, and Amended Complaint, if any, when sold as aforesaid by virtue of this judgment, except as provided by 28 USC Section 2410.

Notwithstanding anything herein to the contrary, this judgment shall not affect the rights of any person protected by the New Jersey Tenant Anti-Eviction Act, N.J.S.A. 2A:18-61.1, et seq., the right of redemption given the United States under 28 US. C §2410, the limited priority rights for the aggregate customary condominium assessment for the six-month period prior to the recording of any association lien as allowed by N.J.S.A. 46:8B-21 or rights afforded by the Servicemembers Civil Relief Act, 50 US. C. App. 501 et seq. or N.J.S.A 38:23C-4.

Is. Paul Innes, P.J.Ch.

Paul Innes, P.J.Ch.

File No. IND2261

Respectfully Recommended
R. 1:34-6 Office of Foreclosure



EXHIBIT

D

Errol Jefferson, his heirs, devisees,
and personal representatives, and
his, her, their or any of their
successors in right, title and
interest, ..., **Joann Jefferson**

**365 Bergen Ave., Jersey City,
N. J. 07304. Pro Sec**

F I L E D

Oct 28, 2016

MARYBETH ROGERS, J.S.C.

ONEWEST BANK, FSB

Plaintiff

Vs

**SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-General Equity
HUDSON COUNTY**

DOCKET NO. : F-014293-12

Errol Jefferson, his heirs, devisees,
and personal representatives, and
his, her, their or any of their successors
in right, title and interest, ...
Joann Jefferson

CIVIL ACTION: ORDER

Pro Se

ORDER

This matter having been brought before the Court on Motion of Defendant for an *Order to Vacate the Default*.

This defendant implores that the Honorable Court views, agrees and grants the *Motion to Vacate the Default*.

This defendant's actions were **NOT** that of debase indifference, wanton disregard, irresponsibility or inattentiveness, for court proceedings; it was a regrettable error, of pleading; without the necessary form and fee.

Through assiduous and earnest efforts, the matter was promptly resolved.

Kindly afford this still daunted litigant, the right to defend, against this vexatious and unconscionable action, by *Vacating the Default*.

At the mercy of the Honorable Court

and the Court having considered the matter and for good cause appearing,

(Do not write below this line, For Court Use Only)

It is on this 28th day of October, 20 16, **ORDERED** that:

Defendant's Motion to Vacte Default is hereby DENIED; and

It is **FURTHER ORDERED** that a copy of this Order be served by the moving party upon all other parties or their attorneys, if any, within **seven (7) days** of this Order hereof.

This motion was:

☒ **Opposed**

☐ **Unopposed**


MARYBETH ROGERS, J.S.C.

**** See this Court's reasoing on pgs. 3-4.**

Defendant, Joann Jefferson ("Defendant"), requests this Court to vacate Default and permit Defendant to file an answer within thirty (30) days.

Defendant filed this Notice of Motion on September 16, 2016. Plaintiff, Onewest Bank, FSB ("Plaintiff"), filed opposition on October 17, 2016.

Facts

1. Plaintiff filed this Foreclosure Complaint on July 24, 2012.
2. Plaintiff filed an Amended Complaint on January 19, 2016.
3. Plaintiff filed a second Amended Complaint on May 18, 2016.
4. Default was entered on July 27, 2016.
5. Defendant attempted to file an Answer on July 6, 2016, and on August 8, 2016, but the Office of Foreclosure rejected it because it was missing the FCIS Sheet and filing fee.

Defendant's Contentions

Defendant contends that she made a mistake by inadvertently pleading without the submission of the FCIS Form and the \$175 Filing Fee. Further, Defendant argues that Plaintiff moved for Default before Defendant could make the proper filing corrections.

Plaintiff's Contentions

In very brief opposition, Plaintiff argues that Defendant does not provide a proposed Answer with her Motion papers, and that there is no meritorious defense worthy to vacate default mentioned in Defendant's Motion.

Analysis

A motion to set aside entry of default is governed by R. 4:43-3, which states:

A party's motion for the vacation of entry of default shall be accompanied by (1) either an answer to the complaint and Case Information Statement or a dispositive motion pursuant to R. 4:6-2, and (2) the filing fee for an answer or dispositive motion, which shall be returned if the motion to vacate the entry of default is denied. For good cause shown, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with R. 4:50.

[R. 4:43-3.]

Pursuant to R. 4:43-3, a party seeking to vacate default must demonstrate good cause for failure to file an answer. Eileen T. Quigley, Inc. v. Miller Family Farms, Inc., 266 N.J. Super. 283, 293 (App. Div. 1993). To answer whether good cause exists, courts examine the record to: (1) determine why the party seeking relief failed to file an answer within the time provided by the court rules and (2) evaluate whether there was good cause for this failure. Local 478 v. Baron Holding Corp., 224 N.J. Super. 485, 488 (App. Div. 1988) (citing O'Connor, 67 N.J. at 128-29). A finding of good cause is determined at the sound discretion by the trial court in light of the facts and circumstances of the particular case. O'Connor v. Altus, 67 N.J. 106, 129 (1975). The "good cause" standard under R. 4:43-3 is less stringent standard than R. 4:50-1, which governs the vacation of default judgment. U.S. Bank Nat. Ass'n. v. Guillaume, 209 N.J. 449, 466-67 (2012); Bernhardt v. Alden Café, 374 N.J. Super. 271, 277 (App. Div. 2005). Consequently, a moving party's burden under R. 4:43-3 is less onerous. Bank of New Jersey v. Pulini, 194 N.J. Super. 163 (App. Div. 1984); see also New Jersey Mfrs. Ins. Co. v. Prestige Health Group, LLC, 406 N.J. Super. 354, 360 (App. Div. 2009) (stating that the moving party must make a "mere showing of good cause").

Although the requisite good cause is not readily quantifiable, the Court notes that even an application to set aside a default judgment, which requires a more stringent showing of cause under R. 4:50-1 than the setting aside of a default under R. 4:43-3, is "viewed with great liberality, and every reasonable ground for indulgence is tolerated to the end that a just result is reached." Marder v. Realty Construction Co., 84 N.J. Super. 313, 319 (App. Div. 1964), aff'd 43 N.J. 508 (1964).

To vacate a default, in addition to a showing of good cause, the defendant must also "at the very least show the presence of a meritorious defense worthy of judicial determination." Trustees of Local 478 Trucking and Allied Industries Pension Fund v. Baron Holding Corp., 224 N.J. Super. 485, 489 (App. Div. 1985). Otherwise, "the time of the courts, counsel and litigants should not be taken up by such futile proceedings." Schulwitz v. Shuster, 27 N.J. Super. 554, 561 (App. Div. 1953). This finding is especially pertinent in foreclosure cases "where the mere denominating of the matter as a contested case moves it from the expeditious disposition ... to a more protracted treatment[.] If there is no bona fide contest, a secured creditor should have prompt recourse to its collateral." Trustees of Local 478, *supra*, 224 N.J. at 489. Finally, in foreclosure matters, equity must be applied to plaintiffs as well as defendants. Deutsche Bank Trust Co. Ams. V. Angeles, 428 N.J. Super. 315, 320 (App. Div. 2012).

Here, the Court is compelled to deny Defendant's sought relief. Defendant has not demonstrated good cause. Defendant has certified about her mistake at filing her Answer without the proper FCIS form and filing fee. Defendant received deficiency notices from the Office of Foreclosure after the filings were made with notice to correct the mistake within ten days. Defendant did not attempt to correct her mistake and instead sent her filings to the Office of Foreclosure again. Defendant does not provide a reason as to why she did not rectify the errors. Moreover, Defendant has not attached her proposed Answer in her Motion papers for the Court to determine whether there is a meritorious defense.

For the foregoing reasons, Defendant's Motion is hereby DENIED.

EXHIBIT

E

SUPREME COURT OF NEW JERSEY
M-655/656 September Term 2018
081618

OneWest Bank, FSB,
Plaintiff,

v.

Errol Jefferson, his heirs,
devisees, and personal
representatives, and his, her,
their successors in right,
title and interest, and Mrs.
Jefferson, wife of Errol
Jefferson, Hamilton Park
Healthcare Center, the State
of New Jersey and United
States of America,
Defendants,
and
Joann Jefferson,
Defendant-Movant.

FILED

MAR 08 2019

Heather J. Bate
CLERK

ORDER

It is ORDERED that the motion for leave to file a motion for
reconsideration as within time (M-655) is granted; and it is further

ORDERED that the motion for reconsideration of the Court's order
denying the petition for certification (M-656) is denied.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at Trenton, this
5th day of March, 2019.

Heather J. Bate

CLERK OF THE SUPREME COURT

EXHIBIT

F

Errol Jefferson, his heirs, devisees,
and personal representatives, and
his, her, their or any of their
successors in right, title and
interest,..., Joann Jefferson
365 Bergen Ave., Jersey City,
N. J. 07304. Pro Se

FILED

JUL 24 2017

MARYBETH ROGERS, J.S.C.

ONEWEST BANK, FSB

Plaintiff

Vs

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-General Equity
HUDSON COUNTY

DOCKET NO. : F-014293-12

Errol Jefferson, his heirs, devisees,
and personal representatives, and
his, her, their or any of their successors
in right, title and interest, ...

Joann Jefferson

CIVIL ACTION: **ORDER**

PRO SE

ORDER

This matter having been brought before the Court on Motion of Defendant for an
Order to compel Discovery

(Do not write below this line, For Court Use Only)

It is on this 24th day of July, 20 17, **ORDERED** that:

Defendant's Motion to compel discovery is hereby DENIED.

**See this Court's reasoning on pgs. 3-4.

It is **FURTHER ORDERED** that a copy of this Order be served by the moving party upon all other parties or their attorneys, if any, within 7 days of the date listed above.

This motion was:

☐ **Opposed**

☒ **Unopposed**



MARYBETH ROGERS, J.S.C.

Defendant, Joann Jefferson ("Defendant"), requests this Court to compel discovery.

Defendant filed this Notice of Motion on June 16, 2017.

Facts

1. Plaintiff filed this Foreclosure Complaint on July 24, 2012.
2. Plaintiff filed an Amended Complaint on January 19, 2016.
3. Plaintiff filed a second Amended Complaint on May 18, 2016.
4. Default was entered on July 27, 2016.
5. Defendant attempted to file an Answer on July 6, 2016, and on August 8, 2016, but the Office of Foreclosure rejected it because it was missing the FCIS Sheet and filing fee.
6. On September 16, 2016, Defendant moved to vacate Default.
 - a. On October 28, 2016, the Court denied Defendant's Motion.
7. On May 9, 2017, Final Judgment was entered.

Defendant's Contentions

Defendant contends that discovery is imperative in establishing a successful defense that she is being denied by her adversaries. Defendant believes she has a right to prove that fraudulent documents are being used to prevail in the foreclosure action.

Analysis

Pursuant to R. 4:23-1:

A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling discovery as follows:

- (a) Motion. If a deponent fails to answer a question propounded or submitted under R. 4:14 or 4:15, or a corporation or other entity fails to make a designation under R. 4:14-2(c) or 4:15-1, the discovering party may move for an order compelling an answer or designation in accordance with the request. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before applying for an order. If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion pursuant to R. 4:10-3.
- (b) Evasive or Incomplete Answer. For the purpose of this subdivision an evasive or incomplete answer is to be treated as a failure to answer.
- (c) Award of Expenses of Motion. If the motion is granted, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds

that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is denied, the court shall, after opportunity for hearing, require the moving party to pay to the party opposing the motion the reasonable expenses incurred in opposing the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is granted in part and denied in part, the court may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

Here, the Court is inclined to deny Defendant's requested relief. Defendant recites the entirety of R. 4:23-1, but fails to provide any reasoning as to how R. 4:23-1 applies to the instant matter. It is unclear to the Court whether Plaintiff failed to answer or whether there was an evasive or incomplete answer. Defendant discusses no facts or analysis relevant to R. 4:23-1. Defendant only recites R. 4:23-1 and alleges that discovery is imperative. The Court finds that Defendant has failed to plead with specificity what exactly she is seeking to compel from Plaintiff. Therefore, Defendant's Motion is hereby DENIED.

Conclusion

Defendant's Motion is hereby DENIED.

EXHIBIT

G

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

Scott S. Harris
Clerk of the Court
(202) 479-3011

June 12, 2019

Ms. Joann Jefferson
365 Bergen Ave.
Jersey City, NJ 07304

Re: Joann Jefferson
v. OneWest Bank, FSB
Application No. 18A1290

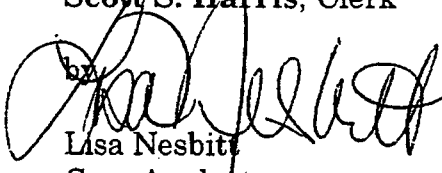
Dear Ms. Jefferson:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Alito, who on June 12, 2019, extended the time to and including August 5, 2019.

This letter has been sent to those designated on the attached notification list.

Sincerely,

Scott S. Harris, Clerk


by
Lisa Nesbitt
Case Analyst