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OPINIONS AND ORDERS

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1819-21

JAY LIN,

Plaintiff-Appellant,

v.

AARON SAYERS,

Defendant-Respondent.

Submitted December 21, 2022 – Decided January 6, 2023

Before Judges Vernoia and Natali.

On appeal from the Superior Court of New Jersey, Law Division, Morris County, Docket No. DC-004287-21.

Jay J. Lin, appellant pro se.

Pomeroy, Heller, Ley, Digasbarro & Noonan, LLC, attorneys for respondent (Daniel J. Pomeroy and Karen E. Heller, on the brief.)

PER CURIAM

Jay J. Lin, an attorney licensed to practice in the State of New Jersey, on behalf of himself as plaintiff in this negligence suit, appeals from a series of

orders entered by the Special Civil Part.[1] The final order from which the appeal is taken is a $2,146.36 judgment entered in plaintiff's favor following a bench trial. Finding no merit to plaintiff's arguments on appeal, we affirm.

Plaintiff filed an action against defendant Aaron Sayers alleging defendant negligently operated his motor vehicle and caused property damage to plaintiff's vehicle in an automobile accident. Defendant conceded liability and plaintiff sought $4,329.89 in damages for what he claimed were the repair costs to his vehicle.

Defendant moved for an order limiting plaintiff's damages to the value of the plaintiff's vehicle at the time of the accident. Relying on our decision in Lane v. Oil Delivery, Inc., 216 N.J. Super. 413 (App. Div. 1987), and Model Jury Charges (Civil), 8.44, "Personal Property" (approved Mar. 1975), the court entered a November 30, 2021 order granting defendant's motion and limiting plaintiff's damages "to the value of his property before the loss as compared to

[1] Plaintiff appeals from: a November 30, 2021 order limiting his damages to $2,146.36; a December 24, 2021 order denying his motion to compel discovery; a January 12, 2022 order granting in part and denying in part plaintiff's motion for reconsideration of the November 30, 2021 and December 24, 2021 orders; and a January 24, 2022 judgment awarding plaintiff $2,146.36 in damages.

the value after the loss."[2] In its statement of reasons supporting the order, the court determined the market value of the vehicle at the time of the accident was $2,762.45, the damage to the vehicle resulted in a total loss, and the scrap value of the vehicle if plaintiff retained it was $620.79. The court therefore concluded plaintiff's damages were limited to $2,146.36 if plaintiff retained the vehicle.[3]

Plaintiff subsequently moved to compel discovery — more detailed responses to interrogatories from defendant. The court denied the motion, finding: plaintiff did not comply with Rule 1:6-2(c)'s requirement he confer with defendant prior to filing a discovery motion; the information sought in the interrogatories was unnecessary because it primarily concerned issues related to liability, which was not contested; and defendant otherwise provided additional information responsive to the interrogatories in its submissions on the motion.

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[2] In Lane, we held the measure of damages for personal property destroyed by a tortfeasor, where there is a market value of the property, is the market value at the time of the loss. 216 N.J. Super. at 419. Model Jury Charge (Civil), 8.44 provides in pertinent part "[t]he measure of damages" for personal property damaged as the result of a defendant's negligence "is the difference between the market value of the personal property before and the market value after the damage occurred."

[3] The court's order included a mathematical error. The court determined plaintiff was entitled to the value of the vehicle, which the court found to be $2,762.45, less the vehicle's scrap value if plaintiff decided to retain it. The court found the scrap value was $620.79. However, the court calculated the difference as "$2,146.36." In fact, the difference is $2,141.86.

The court further determined defendant was not obligated to verify or authenticate a police report because plaintiff "may do so at trial through appropriate means." The court entered a December 24, 2021 order memorializing its decision and denying plaintiff's motion to compel discovery.

Plaintiff also filed a motion for reconsideration of the November 30, 2021 and December 24, 2021 orders, arguing defendant's motion to limit plaintiff's damages was based on "fraudulently produced reports." The court denied in part and granted in part plaintiff's motion. The court reaffirmed its determination plaintiff's damages should be limited to the value of his vehicle "before the loss as compared with its value after the loss," but the court modified the November 30, 2021 order "to the extent that it limit[ed] [p]laintiff's property damages to a fixed number — $2,762.45." The court explained the amount of plaintiff's damages should be determined at trial based on "proofs of the value of the car prior to the loss, whether the car was rendered a total loss and the value of the scrap after the accident." The court also determined plaintiff could address the issue of the allegedly false reports through his examination of the witnesses at trial.

At the trial on damages, plaintiff called two witnesses, defendant and a property adjuster employed by defendant's insurance carrier. Plaintiff's

questioning of defendant primarily focused on issues concerning liability, and the court limited the questioning because defendant stipulated to liability. Plaintiff's questioning of the insurance carrier's property adjuster focused on the claim number assigned to plaintiff's damage claim and plaintiff's suggestion the claim number related to the determination of the value of plaintiff's vehicle. The adjuster testified the claim number is unrelated to the determination of the vehicle's value. He also described the method employed by the carrier to determine the vehicle's value at the time of the accident, its value following the accident, and its scrap value after the accident.

The adjuster also testified the market value of the vehicle was $2,762.65 prior to the accident, and the damage to the vehicle in the accident resulted in a total loss because the costs of repairing the vehicle exceeded its market value. The adjuster further explained the salvage value of the car was $620.79. Thus, the adjuster testified plaintiff's damages were $2,146.36 if plaintiff retained the vehicle, consisting of the value of the car before the accident less the salvage value of the car if plaintiff retained it.

Plaintiff did not call any additional witnesses, and defendant rested without calling any witnesses. In a detailed oral opinion, the court found plaintiff failed to demonstrate any fraud in the administration of the claim by

defendant's carrier, and the court credited the adjuster's testimony concerning the vehicle's value prior to the accident, the costs of repairing the damage, and the vehicle's salvage value. Based on that testimony, the court found the vehicle had a value of $2,762.45 prior to the accident, the damage to the vehicle in the accident resulted in a total loss, and the salvage value of the vehicle after the accident was $620.79.[4] The court further reasoned that because plaintiff opted to retain the vehicle after the accident, the salvage value should be deducted from its pre-accident value for purposes of determining plaintiff's damages. The court concluded the credible evidence established plaintiff sustained property damages in the amount of $2,146.36 and entered a January 24, 2022 final judgment in plaintiff's favor for that amount. This appeal followed.

In support of his appeal from the court's November 30, 2021, December 24, 2021, January 12, 2022, and January 24, 2022 orders, plaintiff offers the following arguments for our consideration:

> POINT A
> The trial [c]ourt granted [p]laintiff's motion for judgment that [p]laintiff never filed.

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[4] Having accepted as credible the adjuster's testimony, the trial court appears to have erred by concluding the vehicle had a value of $2,762.45 prior to the accident. As noted, the adjuster testified the vehicle had a value of $2,762.65 prior to the accident. We do not address the discrepancy, which is in plaintiff's favor, because defendant does not challenge the court's determination of the vehicle's value prior to the accident.

POINT B

The trial [c]ourt [j]udge . . . entered [o]rder by accepting [d]efendant [a]ttorney's private, personal, secretive [p]etition without disclose [sic] to [p]laintiff's [a]ttorney and put on [c]ourt records.

POINT C

The trial [c]ourt entered [o]rder without testimony, witnesses, experts, records, and arguments during the trial.

POINT D

The trial [c]ourt [j]udge . . . entered [o]rder overruled the [prior judge's] [o]rders without citing any reasons or authorities.

Having reviewed the record, we are convinced plaintiff's arguments are wholly devoid of merit and are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E). We affirm the challenged orders and final judgment substantially for the reasons set forth in the court's written statements of reasons annexed to the motion orders and oral opinion following trial. We also affirm the final judgment because the court's credibility determinations and findings of fact are supported by substantial credible evidence, and we discern no error in the court's legal conclusions. See generally Gnall v. Gnall, 222 N.J. 414, 428 (2015) (quoting Cesare v. Cesare, 154 N.J. 394, 411-12 (1998)) (explaining a reviewing court accepts a trial court's findings of fact that are "supported by adequate, substantial, credible evidence"); see also Manalapan

Realty, L.P. v. Twp. Comm. of Twp. of Manalapan, 140 N.J. 366, 378 (1995) (finding a reviewing court conducts a de novo examination of the "trial court's interpretation of the law and the legal consequences that flow from established facts").

We also note each of plaintiff's putative arguments are directed solely to the January 24, 2022 judgment. As such, any arguments that might have been asserted in support of plaintiff's appeal from the November 30, 2021, December 24, 2021, and January 12, 2022 orders are deemed abandoned. Drinker Biddle & Reath LLP v. N.J. Dep't of Law & Pub. Safety, 421 N.J. Super. 489, 496 n.5 (App. Div. 2011).

Additionally, plaintiff's arguments challenging the January 24, 2022 judgment lack merit because they consist of no more than conclusory assertions of alleged fact that find no support in the record. For example, plaintiff's arguments are primarily founded on vaguely asserted claims defendant's trial counsel admitted to "commit[ing] fraud, perjury, and forgery" in support of the motion to limit plaintiff's damages, defendant's insurance carrier "falsified . . . evidence[]," and the trial judge received "a private, personal, secretive [s]tipulation . . . to award a [j]udgment for [p]laintiff so [defendant's insurance carrier] can retain [p]laintiff's vehicle." But none of those claims is

tethered to any competent evidence introduced at trial or provided in connection with any of the parties' motions. Indeed, as plaintiff acknowledges in his merits brief, not one of his claims on appeal was made before the trial court in the first instance. See generally Nieder v. Royal Indem. Ins. Co., 62 N.J. 229, 234 (1973) (explaining a reviewing court generally does not consider claims raised for the first time on appeal unless they "go to the jurisdiction of the trial court or concern matters of great public interest."). In sum, plaintiff's arguments are patently frivolous and warrant no further discussion. R. 2:11-3(e)(1)(E).

Affirmed.

a10

FILED

JAN 24 2022

David J. Weaver, J.S.C.
JUDGES CHAMBERS
MORRIS COUNTY COURTHOUSE

ORDER PREPARED BY THE COURT

SUPERIOR COURT OF NEW JERSEY

MORRIS COUNTY
Special Civil Part
DOCKET NO. MRS DC 4287-21

Jay Lin
Plaintiff

vs

Aaron Sawyer
Defendant

SPECIAL CIVIL ACTION
ORDER

THIS MATTER, having been opened to the Court by the Plaintiff, and for good cause shown:

IT IS on this 24th day of January, 2022

After Trial judgment is entered against the defendant and in favor of Plaintiff in amount of $2,146.36. For reasons stated on record

David J. Weaver, JSC
David J. Weaver, Judge of the Superior Court

SUPREME COURT OF NEW JERSEY
M-443 September Term 2023
087934

Jay Lin,

Plaintiff,

v.

ORDER

Aaron Sayers,

Defendant-Movant.

It is ORDERED that defendant's motion to dismiss the appeal is granted; and it is further

ORDERED that plaintiff's appeal is dismissed.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at Trenton, this 9th day of January, 2024.

CLERK OF THE SUPREME COURT