

APPENDIX A

SUPREME COURT OF NEW JERSEY
M-1439 September Term 2016
078792

ROSE T. JAMES,
PLAINTIFF-MOVANT,

AND

DELLA MARIE DIPASQUALE,
PLAINTIFF,

V.

DOREEN CORINO, ESQUIRE AND
MARIE BRITTON,
DEFENDANTS.

FILED

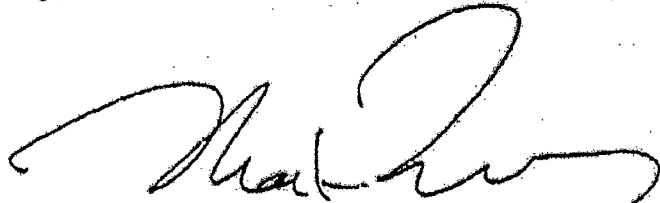
JUL 10 2017

Mark Henry
CLERK

ORDER

It is ORDERED that the motion for reconsideration of the
Court's order denying the petition for certification is denied.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at
Trenton, this 5th day of July, 2017.


CLERK OF THE SUPREME COURT

APPENDIX B

SUPREME COURT OF NEW JERSEY
C-758 September Term 2016
078792

ROSE T. JAMES,
PLAINTIFF-PETITIONER,

AND

DELLA MARIE DIPASQUALE,
PLAINTIFF,

ON PETITION FOR CERTIFICATION

V.

DOREEN CORINO, ESQUIRE AND
MARIE BRITTON,
DEFENDANTS-RESPONDENTS.

FILED

MAY -5 2017

Mark Henry
CLERK

To the Appellate Division, Superior Court:

A petition for certification of the judgment in A-005115-14
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 2nd day of May, 2017.

Stuart Rabner

CLERK OF THE SUPREME COURT

NOT FOR PUBLICATION WITHOUT THE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-5115-14T3

ROSE T. JAMES,

Plaintiff-Appellant,

and

DELLA MARIE DIPASQUALE,

Plaintiff-Respondent,

v.

DOREEN CORINO, ESQUIRE and MARIE
BRITTON,

Defendants-Respondents.

Argued August 16, 2016 – Decided December 12, 2016

Before Judges Nugent and Accurso.

On appeal from Superior Court of New Jersey,
Law Division, Cape May County, Docket No. L-
127-15.

Harry L. Shoemaker, III, of the Louisiana
bar, admitted pro hac vice, argued the cause
for appellant (Roger Martindell and Mr.
Shoemaker, attorneys; Rose T. James, on the
pro se brief).

John B. Mullahy argued the cause for
respondent Doreen Corino (Kaufman Borgeest &

Ryan, LLP, attorneys; Mr. Mullahy and Bassel Bakhos, on the brief).

Louis M. Barbone argued the cause for respondent Marie Britton (Jacobs & Barbone, PA, attorneys; Mr. Barbone and Yoonieh Ahn, on the brief).

Respondent Della Marie DiPasquale has not filed a brief.

PER CURIAM

Over two and a half years after the deaths of her aunt and mother and eighteen months after the admission of the last of their wills to probate, plaintiff Rose T. James filed a pro se complaint in the Law Division against the lawyer who drafted their wills, defendant Doreen Corino, as well as the executrix under both wills, plaintiff's sister, defendant Marie Britton, alleging "fraud and forgery of the wills," resulting in "irreparable family damage" and the denial of her "rightful inheritance."¹

Specifically, plaintiff claimed the will drafted for her aunt by Corino was "illegally and improperly prepared" because it contained "a prohibited conflict of interest." She also claimed, on the basis of a report by a forensic document examiner, that while the signature on her mother's will was

¹ Plaintiff's sister-in-law, Della Maria DiPasquale, was also a plaintiff in the action but has not participated in this appeal.

genuine, the initials on each page were not.² Plaintiff also claimed defendant Britton delayed offering the wills for probate and "was intentionally deceitful" in failing to notify her that the wills were probated.

The Law Division granted defendants' motion to dismiss with prejudice finding the complaint was untimely under Rule 4:85-1³ and barred by the holding in Garruto v. Cannici, 397 N.J. Super. 231, 240 (App. Div. 2007), that "an independent cause of action for tortious interference with an expected inheritance . . . is barred when . . . plaintiffs have failed to pursue their adequate remedy in probate proceedings of which they received timely notice." The judge found plaintiff had consulted counsel about the wills before they were offered for probate and was

² Plaintiff's mother made no provision for plaintiff in her will. The will's third paragraph provides:

For reasons best known to my daughter ROSE T. JAMES and my son, JOHN L. DI PASQUALE, and in consideration for compensation made to them during my lifetime, I specifically exclude any distribution to either my daughter Rose T. James or my son, John L. DiPasquale.

³ The Rule requires that a will challenge by an out-of-state resident be filed within six months of the probate, unless relief is sought based on "R. 4:50-1(d), (e) or (f) or R. 4:50-3 (fraud upon the court)." In that event, the complaint "shall be filed within a reasonable time under the circumstances."

"aware, to some degree, of the wills dispositions" and was thus on notice of a potential forgery.

More important, plaintiff conceded she acquired copies of the wills from the Cape May County Surrogate fourteen months before she filed her complaint. She had the wills reviewed by forensic document examiners six months after acquiring them and received the reports on which she based her complaint three months after that. Plaintiff then waited another six months before she instituted this action. The judge found under those undisputed facts that plaintiff did not bring her claim "within a reasonable time under the circumstances" even in light of her allegations of fraud.

We agree with the trial court that this case is squarely controlled by Rule 4:85-1 and Garruto. Plaintiff failed to pursue her adequate remedy in probate proceedings within a reasonable time of being notified of those proceedings and acquiring copies of the wills. See Garruto, supra, 397 N.J. Super. at 240. She is thus barred from maintaining a tort action in the Law Division alleging interference with her inheritance, and the court was correct to dismiss the action with prejudice. Plaintiff's arguments to the contrary are without sufficient merit to warrant discussion in a written

opinion. See R. 2:11-3(e)(1)(E). We affirm substantially for the reasons expressed in Judge Gibson's opinion of June 8, 2015.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION

**Additional material
from this filing is
available in the
Clerk's Office.**