

June 17, 2019

The Honorable Carmen Messano, P.J.
Superior Court of New Jersey - Appellate Division
Richard J. Hughes Justice Complex
P O Box 006
Trenton, New Jersey 08625-0006
US Postal Express # EL 796455570 US

RE: **US Bank v. Bailey**, Appellate Docket # **A-001724-17**
New Jersey Superior Court, Essex County Chancery Division, **Docket # F-20645-14**

Dear Judge Messano:

Please accept this Letter Brief in lieu of a more formal brief, in support of Defendant-Movant's Motion To Reconsider June 17, 2019 Decision.

OVERVIEW

At long last, the highly anticipated Decision in Appeal A-001724-17 has been released on Monday, June 17, 2019, on the eve of the looming Eviction of widow Defendant-Movant from her Vailsburg, New Jersey home of 30 years. **That Eviction is currently scheduled for Wednesday, June 19, 2019.**

CONCISE PROCEDURAL BACKGROUND

1) On Friday, July 21, 2017, Judge Thomas M. Moore held a hearing on Defendant-Movant's Motion To Quash re Objections on the *“amount of indebtedness”* in Plaintiff-Respondent's Application for Final Judgment, et al.

2) On Monday, July 24, 2017, Judge Thomas M. Moore issued an Order denying Defendant-Movant's Motion To Quash re Objections

3) On August 1, 2017 the New Jersey Superior Court issued an Order For Final Judgment on Defendant-Movant's home of 30 years located in Vailsburg, New Jersey. **That Order was issued 8 days, NOT 10 days, after the Trial Court's denial of Defendant-Movant's Objections.**

NOTE: Defendant-Movant did **not** even receive a copy of the Order denying her Objections until she contacted the Court and Plaintiff-Respondent by email on Thursday, July 27, 2017. (Appendix 533a) At that point Plaintiff-Respondent emailed Defendant-Movant a copy of the July 24, 2017 Order. THE IRONY IS THAT DEFENDANT-MOVANT HAS YET TO RECEIVE A POSTAL MAILED COPY OF THE ORDER FROM JUDGE THOMAS M. MOORE'S CHAMBERS ! NADA ! **(The currently accessible *eCourt* system was not in place on those dates, and thus not available to Defendant-Movant or other members of the general public.)**

4) For reasons yet to be adequately explained, even with the intervention and assistance of Defendant-Movant's legal counsel, Joshua Denbeaux, Esq., Judge Thomas M. Moore dragged out scheduling the hearing on Defendant-Movant's August 17, 2017 Motion To Void the July 24, 2017 Order for 3 MONTHS, until December 1, 2017. (Appendix 542-586a, 696a)

NOTE: Defendant-Movant represented herself Pro Se except for the 3 months during which she retained Mr. Denbeaux.

Judge Thomas M. Moore's first "pretext" was that he would issue a written decision (at some time when he got around to it), because supposedly Defendant-Movant had **NOT** requested Oral Argument. Mr. Denbeaux replied and provided the Court with proof that Defendant-Movant actually had requested Oral Argument. **Then, and only then, did Judge Thomas M. Moore begrudgingly and finally schedule a hearing for December 1, 2017, 3MONTHS later. You figure.**

5) Defendant-Movant appeared Pro Se at the December 1, 2017 hearing. By that date the first of several Sheriff Sales had been scheduled, according to postings on the Essex County Sheriff's web site and Plaintiff-Respondent's Notice (Appendix 634a).

6) At that long overdue hearing on December 1, 2017 Judge Thomas M. Moore denied Defendant-Movant's Motion To Vacate Premature Order for Final Judgment.

7) During the hearing on January 5, 2018 Judge Thomas M. Moore denied Defendant-Movant's Motion To Stay Order For Final Judgment Pending Appeal.

8) During the hearing on February 2, 2018 Judge Thomas M. Moore denied Defendant-Movant's Motion To Reconsider his denial to Stay.

9) It was during the January 5, 2018 and February 2, 2018 hearings on the Motions re the Stay that Judge Thomas M. Moore rendered Version 1 and Version 2 of “THE REALLY, REAL REASON” for the extended 3-MONTH DELAY. (The Appendix to the Appeal includes the Transcripts of those hearings which contain Judge Thomas M. Moore’s “explanations”. Refer to Appendix pages 696a, 657-659a, 678-680a.)

10) This Appeal followed.

11. Oral Argument was heard on February 12, 2019, conducted by telephone conference, because the Courts were closed due to the winter storm raging on that date.

REASONS TO GRANT RECONSIDER, VACATE FINAL JUDGMENT AND REMAND

The New Jersey Appellate Court is a Court of Review. The Judges are to make decisions based on the record before them, **NOT** on extraneous or extra-record material, **NOT** properly presented, with timely Notice to the opposing side(s). Plaintiff-Respondent’s Counsel Siobhan A. Nolan, Esq. of Reed Smith LLP, gratuitously threw in mention of the October 16, 2018 Essex County Sheriff auction of Defendant-Movant’s home, as rendering moot the Appeal A-001724-17; Ms. Nolan even slipped in that, as best she knew, Plaintiff-Respondent had no plan to file a Deficiency Judgment against Defendant-Movant. (Footnote 4, on page 8 of the June 17, 2019 Decision, alludes to such extraneous info offered and incorrectly influenced, or was included/reflected upon by the Appellate panel.)

The record is this instant Appeal was perfected on July 21, 2018. That was 3 MONTHS **BEFORE** the October 16, 2018 Essex County Sheriff auction and sell of Defendant-Movant's home to winning Bidder #20, Marc Pasuco. Defendant-Movant knows the identity of Bidder #20 because she attended that auction, and afterwards she provided Mr. Pasuco with details of the "*pending litigation*" affecting her property. (The "irregularities" during the conduct of that auction, et al, are addressed in pending Appeal A-001794-18.) Such knowledge had **NOT** been provided to any prospective bidders by Plaintiff-Respondent.

Since the record of this instant Appeal A-001724-17 was already sealed on July 21, 2018, the fact of the October 16, 2018 auction was NOT properly before the Appellate panel that heard Oral Argument on February 12, 2019. Ditto for any intended/supposed action or inaction of Plaintiff-Respondent re seeking a Deficiency Judgment on Defendant-Movant. The auction and Deficiency Judgment were NOT a part of the record perfected on July 21, 2018 and should NOT have factored in the Appellate panel's decision. That is especially the case since Plaintiff-Respondent did NOT seek the Court's prior permission to include such information, with Notice to Defendant-Movant. Period. End of story.

Had Defendant-Movant's August 17, 2019 Motion To Quash the premature August 1, 2017 Order of Final Judgment been heard by Judge Thomas M. Moore in a timely fashion, NOT 3 MONTHS later, Defendant-Movant's time to file a 45-day Appeal versus an interlocutory Appeal to the August 1, 2017 Order for Final Judgment would NOT have expired while the Trial Court kept Defendant-Movant's August 17, 2017 Motion To Quash swinging in the breeze, by animated suspension !

Moreover, Defendant-Movant is completely mystified as to how the Appellate Panel could possibly consider an impactful and creditable allegation of Judicial Misconduct, supported by empirical evidence on Appendix page 696a, and the Transcript references in Appendix pages 657-659a, 678-680a, to be deemed “*without sufficient merit to warrant discussion in a written opinion.*”

CONCLUSION

For these and other equitable reasons, Defendant-Movant implores that the Court grants her Motion To Reconsider its June 17, 2019 Decision, and reverse and remand to include the unconstitutional impact to Defendant-Movant’s protected rights to due process as a result of the misconduct of Judge Thomas M. Moore, included in Defendant-Movant’s Point 4 of her Appeal A-001724-17, and also outlined above.

Respectfully submitted,

/s/Carolyn Bailey

Carolyn Bailey, Defendant-Movant