

NOTICE OF APPEAL
to
SUPERIOR COURT –
APPELLATE DIVISION

Kenneth Frank Irek, *Plaintiff*

v.

New Jersey Lawyers' Fund
For Client Protection, *Defendant*

and

The Supreme Court of New Jersey, *Defendant*

From:

Superior Court of New Jersey
Mercer County
Law Division

Docket No. MER-L-002022-20

This page is for information only and is Not part of the attached document(s). It was created by Kenneth F. Irek for clarification and indexing.

Kenneth Frank Irek, Pro Se
8330 Haskell Ave, Unit 226
North Hills, CA 91343
Telephone No. 747-260-8998
Fax No. 818-533-6237
E-Mail: info@njdisbarred.com

January 7, 2021

**NEW JERSEY
APPELLATE DIVISION CLERK'S OFFICE**

Richard J. Hughes Justice Complex
25 W. Market St., PO Box 006
Trenton, NJ 08625-0006
609-815-2950

USPS Priority Mail Tracking Number:

[XXXX-XXXX-XXXX-XXXX]

**RE: KENNETH FRANK IREK v.
NEW JERSEY LAWYERS' FUND FOR CLIENT PROTECTION,
and
THE SUPREME COURT OF NEW JERSEY
Docket # MER-L-002022-20
NOTICE OF APPEAL**

Dear Sir or Madam:

Enclosed please find an Original and (4) copies of the NOTICE OF APPEAL, for the above-captioned matter, for filing:

- 1) Notice of Appeal
- 2) Civil CIS
- 3) Signed Order
- 4) Transcript Request
- 5) Filing fee - Check no. XXXX in the amount of \$250.00 for the Appeal filing fee.

Additionally, (1) additional copy is enclosed, with a self-addressed stamped envelope, to mail back a copy marked "filed".

Thank You
Sincerely,

Kenneth Frank Irek
Plaintiff, Pro Se



New Jersey Judiciary
Superior Court - Appellate Division
Notice of Appeal

Type or clearly print all information. Attach additional sheets if necessary.

<p>(1) Title in Full (As Captioned Below) KENNETH FRANK IREK Plaintiff v. NEW JERSEY LAWYERS' FUND FOR CLIENT PROTECTION and THE SUPREME COURT OF NEW JERSEY Defendants</p>	<p>(2) Attorney/Law Firm/Pro Se Litigant Name Kenneth Frank Irek, Pro Se Plaintiff</p> <p>Street Address 8330 Haskell Ave., Apt 226</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">City</td> <td style="width: 10%;">State</td> <td style="width: 10%;">Zip</td> <td style="width: 47%;">Telephone Number</td> </tr> <tr> <td>North Hills</td> <td>CA</td> <td>91343</td> <td>747-260-8998</td> </tr> </table> <p>Email Address: kennyirek@gmail.com</p>	City	State	Zip	Telephone Number	North Hills	CA	91343	747-260-8998
City	State	Zip	Telephone Number						
North Hills	CA	91343	747-260-8998						

On Appeal from

<p>(3) Trial Court Judge Douglas H. Hurd, P. J. Cv.</p>	<p>(4) Trial Court or State Agency Superior Court of Mercer County</p>	<p>(5) Trial Court or Agency Number MER-L-2022-20</p>
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Notice is hereby given that **(6)** Kenneth Frank Irek, Plaintiff Pro Se, appeals to the Appellate Division from a **(7)** Judgment or Order entered on 12/21/2020, in the (select one)
 Civil, Criminal, or Family Part of the Superior Court Tax Court or from a
 State Agency decision entered on _____.

(8) If not appealing the entire judgment, order or agency decision, specify what parts or paragraphs are being appealed.
 N/A

(9) Have all issues, as to all parties in this action, before the trial court or agency been disposed of? (In consolidated actions, all issues as to all parties in all actions must have been disposed of.) Yes No
 If not, has the order been properly certified as final pursuant to R. 4:42-2? Yes No

For criminal, quasi-criminal and juvenile actions only:

(10A) Give a concise statement of the offense and the judgment including date entered and any sentence or disposition imposed:

(10B) This appeal is from a conviction post-judgment motion post-conviction relief.
 If post-conviction relief, is it the 1st 2nd other _____
specify

(10C) Is defendant incarcerated? Yes No
 Was bail granted or the sentence or disposition stayed? Yes No

(10D) If in custody, name the place of confinement:

Defendant was represented below by:
 Public Defender self private counsel _____
specify

(11) Notice of appeal and attached case information statement have been served where applicable on the following:

	Name	Date of Service
Trial Court Judge	Hon. Douglas H. Hurd, P. J. Cv.	01/07/2021
Trial Court Division Manager	Judith Irizarry	01/07/2021
Tax Court Administrator		
State Agency		
Attorney General or Attorney for other Governmental body pursuant to R. 2:5-1 (a), (d) or (g)	Michael T. Moran, Deputy Attorney General	01/07/2021

Other parties in this action:

Name and Designation	Attorney Name, Address and Telephone No.	Date of Service
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(12) Attached transcript request form has been served where applicable on the following:

	Date of Service
<input checked="" type="checkbox"/> Appellate Division Transcript Office	12/23/2020
<input type="checkbox"/> Clerk of the Tax Court	
<input type="checkbox"/> State Agency (name)	

(13) Exempt from submitting the transcript request form due to the following:

- No verbatim record.
- Transcript in possession of attorney or pro se litigant (four copies of the transcript must be submitted along with an electronic copy).

List the date(s) of the trial or hearing:

December 18, 2020.

- Motion for abbreviation of transcript filed with the court or agency below. Attach copy.
- Motion for transcript at public expense filed with the court below. Attach copy.

I certify that the foregoing statements are true to the best of my knowledge, information and belief. I also certify that, unless exempt, the filing fee required by N.J.S.A. 22A:2-5 and Rule 1:43 has been paid.

(14) 01/07/2021
Date

(15) _____
Signature of Attorney or Pro Se Litigant



New Jersey Judiciary
Superior Court - Appellate Division
Civil Case Information Statement

Please type or clearly print all information.

Title in Full (1) KENNETH FRANK IREK, Plaintiff v. NEW JERSEY LAWYERS' FUND FOR CLIENT PROTECTION and THE SUPREME COURT OF NEW JERSEY, Defendants	Trial Court or Agency Docket Number (2) MER-L-2022-20
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• Attach additional sheets as necessary for any information below.

(3) Appellant's Attorney Email Address: kennyirek@gmail.com

Plaintiff
 Defendant
 Other (Specify)

Name Kenneth Frank Irek, Pro Se	Client Kenneth Frank Irek			
Street Address 8330 Haskell Ave., Apt 226	City North Hills	State CA	Zip 91343	Telephone Number 747-260-8998

(4) Respondent's Attorney* Email Address: Michael.Moran@law.njoag.gov

Name Michael T. Moran, Deputy Attorney General	Client NJLFCP and The Supreme Court of New Jersey			
Street Address 25 Market Street, PO Box 116, RJ Hughes Justice Compx	City Trenton	State NJ	Zip 08625	Telephone Number 609-376-3377

* Indicate which parties, if any, did not participate below or were no longer parties to the action at the time of entry of the judgment or decision being appealed.

(5) Give Date and Summary of Judgment, Order, or Decision Being Appealed and Attach a Copy:

On December 21, 2020, an Order was signed by Honorable Douglas H. Hurd, P. J. Cv., of the Superior Court Law Division, Mercer County, Granting Defendants' Cross-Claim to dismiss Plaintiff's Verified Complaint, with prejudice, for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted, and Granting Defendants' objection to Plaintiff's Motion for Injunctive Relief.

(6) Are there any claims against any party below, either in this or a consolidated action, which have not been disposed of, including counterclaims, cross-claims, third-party claims and applications for counsel fees? Yes No

If so, has the order been properly certified as final pursuant to *R. 4:42-2*? (If not, leave to appeal must be sought. *R. 2:2-4, 2:5-6*) Yes No

(If the order has been certified, attach, together with a copy of the order, a copy of the complaint or any other relevant pleadings and a brief explanation as to why the order qualified for certification pursuant to *R. 4:42-2*.)

Were any claims dismissed without prejudice? Yes No

If so, explain and indicate any agreement between the parties concerning future disposition of those claims.

(7) Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? (*R. 2:5-1(g)*) Yes No

(8) Give a Brief Statement of the Facts and Procedural History:

In 1990, Plaintiff, Kenneth Frank Irek, a New Jersey attorney, was the sole owner of a New Jersey corporation that owned a vacant construction lot that was for sale. Irek signed a contract for sale of real estate and a \$5,000 deposit was paid to the corporation towards the purchase price of \$35,000. The closing never took place and the prospective purchasers filed a grievance with the District IX Ethics Committee and a Claim with the NJLFCP for \$5,000, which was paid to them, although Irek did not represent the claimants as an "attorney" or as a "fiduciary". The NJLFCP fraudulently obtained a default judgment for \$5,000 and began collection activities against Irek, who brought an action to declare, void ab initio, the default judgment and other counts related to those facts.// On 11/9/2020, Irek filed a Verified Complaint against the NJLFCP and the Supreme Court of NJ. He then filed a Motion for Injunctive Relief Temporary Restraints. Defendants filed a Cross-Motion to Dismiss Irek's Complaint - Irek filed a Reply - A telephonic oral argument was held. On 12/21/2020, a signed Order dismissed Irek's Complaint

(9) To the extent possible, list the proposed issues to be raised on the appeal as they will be described in appropriate point headings pursuant to *R. 2:6-2(a)(6)*. (Appellant or cross-appellant only.):

POINT I ERROR IN NOT FINDING THE DEFAULT JUDGMENT VOID AB INITIO BECAUSE THE NJLFCP ONLY HAD JURISDICTION OVER LAWYERS ACTING AS AN ATTORNEY OR FIDUCIARY. POINT II ERROR IN NOT DECLARING THE 1993 DISBARMENT ORDER RELIED ON BY THE NJLFCP AS A REQUIREMENT FOR AN ELIGIBLE CLAIM, TO BE VOID AB INITIO FOR LACK OF SUBJECT MATTER JURISDICTION. POINT III ERROR IN GRANTING DEFENDANTS' CROSS-MOTION TO DISMISS PLAINTIFF'S VERIFIED COMPLAINT BECAUSE THE PLEADINGS CONTAIN UNDISPUTED FACTS SUPPORTING A CAUSE OF ACTION. POINT IV ERROR IN DENYING IREK'S MOTION FOR INJUNCTIVE RELIEF TO PREVENT IRREPERABLE DAMAGE BY ARREST AND INCARCERATION. POINT V ERROR IN NOT WAITING FOR ANSWER BEFORE DISMISSAL.

(10) If you are appealing from a judgment entered by a trial judge sitting without a jury or from an order of the trial court, complete the following:

1. Did the trial judge issue oral findings or an opinion? If so, on what date? _____ Yes No
2. Did the trial judge issue written findings or an opinion? If so, on what date? _____ Yes No
3. Will the trial judge be filing a statement or an opinion pursuant to *R. 2:5-1(b)*? Yes No

Caution: Before you indicate that there was neither findings nor an opinion, you should inquire of the trial judge to determine whether findings or an opinion was placed on the record out of counsel's presence or whether the judge will be filing a statement or opinion pursuant to *R. 2:5-1(b)*.

Date of Your Inquiry: 01/01/2021

1. Is there any appeal now pending or about to be brought before this court which:

(11) (A) Arises from substantially the same case or controversy as this appeal? Yes No

(12) (B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? Yes No

(13) 2. Was there any prior appeal involving this case or controversy? Yes No

(14) If the answer to either 1 or 2 above is Yes, state:

Case Name:

Appellate Division Docket Number:

Civil appeals are screened for submission to the Civil Appeals Settlement Program (CASP) to determine their potential for settlement or, in the alternative, a simplification of the issues and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question. A negative response will not necessarily rule out the scheduling of a preargument conference.

(15) State whether you think this case may benefit from a CASP conference. Yes No

Explain your answer:

This case is not one of disputed facts. The entire record, which began in 1992, consisting of oral testimony and written statements, letters and court documents, were all created and preserved by Defendants. Plaintiff does not dispute any portion of the factual record, which is attached to the Verified Complaint. The issue is simply to apply the appropriate New Jersey law to the existing, undisputed factual record. The Appellate Judges are best suited for that determination.

(16) Whether or not an opinion is approved for publication in the official Court Reporter books, the Judiciary posts all Appellate Division opinions on the Internet.

(17) I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

(18) _____ **(19)** Kenneth Frank Irek
Name of Appellant or Respondent Name of Counsel of Record
(or your name if not represented by counsel)

(20) 01/07/2021 **(21)** _____
Date Signature of Counsel of Record
(or your signature if not represented by counsel)

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 116
Trenton, New Jersey 08625
Attorney for Defendants,
New Jersey Lawyers' Fund for Client
Protection and Supreme Court of New Jersey

By: Michael T. Moran (251732019)
Deputy Attorney General
609-376-3377
Michael.Moran@law.njoag.gov
DOL# 20-02764

KENNETH FRANK IREK,

Plaintiff,

v.

NEW JERSEY LAWYERS' FUND FOR
CLIENT PROTECTION and THE
SUPREME COURT OF NEW JERSEY,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION MERCER COUNTY

DOCKET NO. MER-L-2022-20

CIVIL ACTION

ORDER

THIS MATTER having been opened to the Court on application of Plaintiff pro se Kenneth Frank Irek ("Irek") for injunctive relief, and Deputy Attorney General Michael T. Moran, appearing on behalf of Defendants New Jersey Lawyers' Fund for Client Protection and Supreme Court of New Jersey ("Judiciary Defendants"), having objected to Irek's application for injunctive relief and cross-moving for an Order dismissing the Verified Complaint with prejudice under Rule 4:6-2(a) for lack of subject matter jurisdiction and under Rule 4:6-2(e) failure to state a claim upon which relief can be granted, and the Court

having considered all the motion papers and oral argument and for the reasons placed on the record on this date;

IT IS on this 21st day of December, 2020

ORDERED that the Judiciary Defendants' Cross-Motion to Dismiss Irek's Verified Complaint is hereby **GRANTED**; and it is further

ORDERED that Irek's Verified Complaint against the Judiciary Defendants and their employees is hereby **DISMISSED WITH PREJUDICE**; and it is further

ORDERED that Irek's Motion for Injunctive Relief is hereby **DENIED WITH PREJUDICE**; and it is further

ORDERED that a copy of this Order shall be served upon the pro se plaintiff within ten days of it being uploaded onto eCourts.

 /s/ Douglas H. Hurd
P.J.Cv.

Opposed

Unopposed