

MOTION ORAL ARGUMENT  
DECISION TRANSCRIPT

Kenneth Frank Irek, *Plaintiff*

v.

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

and

The Supreme Court of New Jersey, *Defendant*

Superior Court of New Jersey  
Mercer County, Law Division  
Docket No. MER-L-002022-20

Motion heard electronically by Judge Douglas H. Hurd,  
P. J. Cv., on December 18, 2020

and

Decision orally put on the record on December 21, 2020.

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

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION, CIVIL PART  
MERCER COUNTY  
DOCKET NO. MER-L-2022-20  
APP. DIV. NO. A-001384-20-T4

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KENNETH FRANK IREK,	:
	:
Plaintiff,	:
	:
v.	:
	:
NEW JERSEY LAWYERS' FUND	:
FOR CLIENT PROTECTION and	:
THE SUPREME COURT OF NEW	:
JERSEY,	:
	:
Defendants.	:
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TRANSCRIPT

OF

DECISION

Place: Mercer County Civil Courthouse  
(Heard Electronically)

Date: December 21, 2020

BEFORE:

HONORABLE DOUGLAS H. HURD, J.S.C.

TRANSCRIPT ORDERED BY:

KENNETH FRANK IREK  
8330 Haskell Avenue, Apt. 226  
North Hills, CA 91343

APPEARANCES:

NONE

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I N D E X

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1 (Proceedings commenced at 11:22 a.m.)

2 THE COURT: Yes, this docket is Mercer County  
3 Law Division, 2022-20. Today is December 21st, 2020,  
4 and the Court is putting a decision on the record from  
5 a motion that was returnable December 18th in oral  
6 argument, occurred on December 18th.

7 Kenneth Frank Irek is the plaintiff in this  
8 case, and he was a New Jersey attorney who was  
9 disbarred in May 1993. He now lives in California. He  
10 was disbarred for the knowing misappropriation of  
11 escrow funds in violation of RPC 1.15(b) and 8.4 --  
12 8.4(c), and that's from 132 New Jersey 203.

13 The record reflects that Irek did not appear  
14 before the disciplinary review board or the New Jersey  
15 Supreme Court for the proceedings. The disbarment was  
16 based on a real estate transaction involving the  
17 Szatmarys in which Irek acted as an escrow agent. The  
18 spelling of Szatmarys is S-Z-A-T-M-A-R-Y-S.

19 On April 12, 1991, the Szatmarys completed a  
20 statement of claim through the New Jersey Lawyers' Fund  
21 for Client Protection providing that Irek  
22 misappropriated the \$5,000 deposit as an escrow agent.

23 On November 26, 1993, the Fund agreed to pay  
24 the Szatmarys in the amount of \$5,000. Then on  
25 December 29, 1994, the Fund filed a complaint in the

1 Superior Court of New Jersey against Irek seeking the  
2 \$5,000.

3 A default judgment was entered on March 22,  
4 1995, and since that time the Fund has been trying to  
5 collect. To date Irek owes \$2,500 on a default  
6 judgment.

7 Irek has now filed a six-count complaint  
8 contending, among other things, that the default  
9 judgment was entered without subject matter and  
10 personal jurisdiction and also contending that the  
11 Szatmarys were represented by Mr. Poane, not Mr. Irek,  
12 and a fiduciary and attorney-client relationship  
13 between plaintiff and the Szatmarys was not  
14 established. There are also claims for libel-  
15 defamation, intentional infliction of mental distress,  
16 and common-law fraud.

17 Plaintiff filed a motion for injunctive  
18 relief seeking a preliminary injunction enjoining  
19 defendants from collection of the balance of the  
20 judgment and various other injunctive reliefs. The  
21 defendants have cross-moved to dismiss the complaint  
22 with prejudice.

23 After a thorough reading of all the motion  
24 papers, it is clear that defendants' motion must be  
25 granted and that the request for injunctive relief

1 therefore must be denied. Defendants are correct that  
2 the Court lacks subject matter jurisdiction over the  
3 plaintiff's claim because the Constitution  
4 unequivocally provides the Supreme Court with exclusive  
5 authority over the State Bar, and under this authority  
6 the Supreme Court established the New Jersey Lawyers'  
7 Fund for Client Protection. The defendants properly  
8 rely upon the case of GE Capital versus New Jersey  
9 Title Insurance, 333 N.J. Super., Page 1, Appellate  
10 Division 2000.

11 In that case, the plaintiff wanted to use the  
12 Court system to establish a viable and enforceable  
13 claim against the Fund. Essentially, a collateral  
14 approach. The Court held that it would directly  
15 violate the procedure established by our Supreme Court  
16 for the processing of such claims.

17 The Court also held, quote, "Because the Fund  
18 is wholly a creation of the Supreme Court, the Court  
19 should determine whether alternate proceedings may be  
20 followed in order to pursue a claim against the Fund,"  
21 closed quote.

22 In this case, Irek likewise attempts to  
23 pursue a collateral approach that is prohibited under  
24 the Constitution and court rules. This Court in the  
25 Superior Court Law Division cannot encroach upon

1 matters vested in the Fund through the Supreme Court.  
2 This Court has no jurisdictional power to review the  
3 Fund's discretion in awarding the Szatmarys \$5,000 or  
4 in the Fund's decision to seek and obtain default  
5 judgment and then collect.

6 Likewise, the Court also lacks jurisdiction  
7 over the claim that Irek seeks reinstatement of his law  
8 license, that the Supreme Court governs exclusively the  
9 regulation of the practice of law in New Jersey.

10 Defendants also made correct dispositive  
11 arguments under the Tort Claims Act and statute of  
12 limitations that requires dismissal of plaintiff's  
13 claims for common-law fraud in Count 4, intentional  
14 infliction of mental distress in Count 5, and libel-  
15 defamation in Count 6.

16 Finally, defendants correctly argued that the  
17 defendants are immune from suit in law and equity  
18 because the immunity afforded to the trustees and  
19 deputy counsel for conduct in the performance of their  
20 official duties extends to the public entities they  
21 represent. This is absolute immunity provided under  
22 Rule 1:28-1(f) and allows for immunity to the public  
23 entity under New Jersey statute 59:2-2b, so Irek's  
24 claims for monetary injunctive relief must be denied  
25 because the defendants are entitled to absolute

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immunity.  
So for all those reasons, the Court will grant the cross-motion to dismiss the entirety of plaintiff's verified complaint with prejudice. Therefore, the plaintiff's application for injunctive relief is likewise denied with prejudice. So, the Court will upload the order on eCourts.  
(Proceedings concluded at 11:28 a.m.)

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CERTIFICATION

I, SANDRA HICKS, the assigned transcriber, do hereby certify the foregoing transcript of proceedings on CourtSmart, Index No. from 11:22:11 to 11:28:32, is prepared to the best of my ability and in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of the proceedings, as recorded.

/s/ Sandra Hicks  
Sandra Hicks

AOC 711  
AOC Number

KLJ Transcription Service  
Agency Name

2/22/21  
Date