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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-3910-15T1

WILLIAM RUMBAS,

Plaintiff-Appellant,

and

MICHELLE JONES, FRANJ REMICK,
LISA REMICK, PIERRE WEIMER,
JOSEPHINE WEIMER and MARUEEN
MCDONALD,

Plaintiffs,

v.

SONY ELECTRONICS, INC.,

Defendant-Respondent.

Argued September 27, 2017 – Decided October 12, 2017

Before Judges Alvarez, Nugent, and Geiger.

On appeal from Superior Court of New Jersey,
Law Division, Atlantic County, Docket No. L-
4087-12.

William Rumbas, appellant, argued the cause
pro se.

Robert J. Hafner argued the cause for
respondent (Eckert Seamans Cherin & Mellott,

LLC, attorneys; Mr. Hafner and Elizabeth A. Weill, of counsel and on the brief).

PER CURIAM

In this products liability action, plaintiff William Rumbas appeals from two orders: the first entered judgment on a jury verdict of no cause for action; the second denied plaintiff's post-verdict motion seeking a new trial.¹ The jury rejected plaintiff's claim that his television, manufactured by defendant, malfunctioned and caused the fire that damaged his and three other condominium units. The trial judge, James P. Savio, rejected plaintiff's post-verdict motion for a new trial based on a juror's purported disdain for plaintiff as the result of a landlord-tenant action plaintiff had filed against the juror's friend ten years earlier. We agree with Judge Savio's decision and therefore affirm both orders.

These are the facts relevant to plaintiff's appeal. When jury selection began, Judge Savio gave the jury panel a preliminary overview of the case. He informed the jurors of the street address and municipality where the fire occurred. He told the prospective jurors:

This is a civil lawsuit where the plaintiffs were owners of property, . . . condominium

¹ Although other plaintiffs participated in the trial, Mr. Rumbas is the only plaintiff who appealed. Accordingly, we refer to him as "plaintiff" in this opinion.

units Mr. Rumbas [was] the owner[] of a flat screen television that was located within the property. The flat screen television was manufactured by the defendant

On March 16, 2012, a fire erupted . . . [and] spread and damaged property of the other plaintiffs. The plaintiffs allege that the fire originated in the television and that the fire was caused by a defectively manufactured television. The plaintiffs seek monetary compensation for the damages to the structures and to the personal property located within the structures that they allege was sustained as a result of the fire itself as well as the suppression of the fire.

The judge had eight jurors, whose names were randomly selected, sit in the jury box. He asked the eight jurors twenty-eight preliminary questions. Before asking the questions, Judge Savio explained to the panel that the twenty-eight questions were designed to elicit a negative response. He also explained that as jurors seated in the jury box were excused and replaced by those from the panel, he would not repeat all twenty-eight questions. Rather, he would ask the replacement juror if his or her answer to any of the questions "would be anything other than 'no.'" The judge further instructed the panel that each prospective juror should assume they would be the next person picked to replace a juror seated in the jury box. The judge gave each prospective juror a list of the preliminary questions so they

could follow along while the judge questioned those in the jury box.

Early in the questioning process, the attorneys introduced their clients. Plaintiff's attorney explained that plaintiff had to go to a pharmacy but would return soon. After the attorneys introduced their clients, the judge read a list of potential witnesses, including plaintiff William Rumbas. The judge asked the prospective jurors if they knew any of the individuals.

While the judge was questioning the prospective jurors about the witnesses, plaintiff entered the courtroom. His attorney announced his arrival: "Excuse me, Your Honor. Mr. Rumbas just walked in. Can I just introduce him quickly?" Plaintiff's attorney had plaintiff stand up, and the attorney then introduced plaintiff to the jury. The court immediately inquired, "Do any of you know Mr. Rumbas?" None of the jurors seated in the jury box responded affirmatively.

The court excused more than twenty-five prospective jurors for various reasons. Juror 4 – the subject of plaintiff's post-trial motion – was the last juror to be selected before the jury was sworn. When Juror 4 replaced a previously seated juror, the judge asked if Juror 4 had heard all of his questions. The juror responded, "Yes." The court next asked if the juror's answer to any of the questions would be anything other than no. The juror

responded, "No. I also live in [the municipality where the fire occurred]. Surprisingly, for as small as the town is I really don't know of this story." After the juror provided biographical information, each attorney informed the court the seated jurors constituted an acceptable jury. The jury was then sworn.

Jury selection took place on February 22, 2016. The jury returned a unanimous verdict of no cause for action on March 1, 2016.² The court discharged the jury that day. During the course of the trial, plaintiff raised no issue about Juror 4.

Twenty-nine days after the jury rendered its March 1, 2016 verdict, plaintiff filed a notice of motion "For New Trial." In support of his motion for a new trial, plaintiff filed a certification in which he acknowledged the case was tried before a jury from February 22, 2016, through March 1, 2016. According to plaintiff, he was "present for a portion of jury selection, the parties' openings and closings, and for [his own] trial testimony."

Plaintiff averred that he left court to go to a pharmacy before jury selection began. He stated, "I arrived towards the end of jury selection, and did not note [Juror 4]." He further explained that when he testified, he was focused on his attorney

² The court excused one juror, so seven jurors deliberated and returned the verdict. The verdict was not required to be unanimous. R. 1:8-2(b) and (c).

and the questioning, not the jury, and he did not notice Juror 4. During closing arguments, however, as plaintiff watched the jurors, one looked familiar, but he could not recall the juror's name. A few days after the verdict, he realized that the juror who looked familiar lived a few blocks away from him and disliked him based on the eviction proceeding plaintiff instituted "several years ago" against the juror's friend.

Plaintiff further explained that in 2006, he rented a property to Juror 4's close friend, who worked with the juror. In fact, plaintiff saw Juror 4 at the rental property "many times." When the juror's friend stopped paying rent, plaintiff was forced to file an eviction complaint and evict her. In October 2006, he also obtained a default judgment against the juror's friend. Thereafter, he filed an application for a wage execution in an effort to collect the judgment.

Plaintiff asserted in his certification that Juror 4 was present when officers evicted the juror's friend from the rental property. Plaintiff also asserted Juror 4 "became extremely agitated and actually confronted the officers." Plaintiff concluded his certification by asserting there was no way the juror would not know his name or remember who he was. He believed the juror "would harbor bias against [him] which would affect [the juror's] ability to be an impartial juror in this matter."

During argument on the motion, plaintiff requested the court summon Juror 4 so that plaintiff could question the juror about the decade-old eviction and any lingering animosity Juror 4 might have for plaintiff.

Judge Savio denied the motion. Citing applicable case law as well as Rule 1:16-1, which prohibits parties from examining jurors except "by leave of court granted on good cause shown," Judge Savio determined plaintiff had not met the threshold showing required to have a court recall a juror after the court has discharged the jury. The judge pointed out that plaintiff was unable throughout the trial to recognize Juror 4 and connect her to proceedings that occurred ten years earlier. Judge Savio found incongruous plaintiff's assertion that Juror 4 would recognize the old relationship between plaintiff and the tenant, when plaintiff himself did not make the connection during the trial. The judge noted Juror 4 did not respond affirmatively to the question about whether jurors knew Rumbas.

Judge Savio reasoned that in order to grant plaintiff's request, he would have to conclude Juror 4 recognized plaintiff, wanted to get back at him because he had evicted the juror's friend from an apartment ten years earlier, and for that reason deliberately misrepresented her answer to a question posed by the court. In addition, Judge Savio concluded he would have to

determine Juror 4 then influenced the six other jurors to decide the case in favor of defendant.

On appeal, plaintiff reiterates the arguments he made to the trial court. He asserts Juror 4's "concealment created destructive uncertainties regarding the impartiality of the ultimate jury verdict in this case." He also asserts, based upon the facts he presented in his certification, "juror bias should be presumed."

Defendant responds that plaintiff's motion for a new trial was untimely. Rule 4:49-1(b) requires that such a motion be filed no later than twenty days after the return of the verdict. Defendant further asserts that the time for filing such a motion may not be enlarged, citing Rule 1:3-4(c). Additionally, defendant argues that Judge Savio correctly determined plaintiff had failed to make the strong showing that Juror 4's conduct had the capacity to affect the verdict.

In reply, plaintiff argues that if not timely under Rule 4:49-1, his motion was timely under Rule 4:49-2 and Rule 4:50. He reiterates the arguments he made in his original brief.

We affirm the orders entering judgment on the jury verdict and denying plaintiff's post-verdict motion, substantially for the reasons expressed by Judge Savio in the oral opinion he delivered from the bench on April 15, 2016. We add the following brief comments.

Our Supreme Court has stated that "[c]alling back jurors for interrogation after they have been discharged is an extraordinary procedure which should be invoked only upon a strong showing that a litigant may have been harmed by jury misconduct." State v. Athorn, 46 N.J. 247, 250 (1966). The Court explained that "[i]f verdicts could be easily set aside as a result of an investigation into secret jury deliberations, disappointed litigants would be encouraged to tamper with jurors, to harass them and to employ fraudulent practices in an effort to induce them to repudiate their decisions." Ibid.

There are two exceptions to the general prohibition against calling back jurors. The first occurs when a juror informs other jurors of facts based on the juror's personal knowledge that have not been introduced into evidence. The second occurs when a juror makes comments in the jury room that manifest racial or religious bigotry against a defendant. Id. at 251-52.

More recently, our Supreme Court has explained that "'[g]ood cause' under [Rule 1:16-1] refers to some information that enters jury deliberations and has the capacity for prejudice." Davis v. Husain, 220 N.J. 270, 286 (2014). Thus, a "showing of good cause includes information that is communicated to jurors – by another juror or by an outsider – that is extraneous to the issues that the jury is deciding, and that would be sufficiently prejudicial

to warrant a new trial if such information were considered by the jury." Ibid.

Here, as Judge Savio determined, plaintiff made no such showing. Rather, plaintiff speculated that, after ten years, a juror not only recognized him but maintained such a degree of animosity that the juror was motivated to both misrepresent answers to voir dire questions and attempt to influence other members of the jury. Aside from plaintiff's beliefs, which constitute nothing more than unsupported speculation, plaintiff produced no evidence the juror either discussed these feelings with other jurors or in some other way presented extraneous information during deliberations.

In short, as Judge Savio concluded, plaintiff made an insufficient showing under Rule 1:16-1 to warrant the court summoning and examining any of the jurors.³

Affirmed.

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


CLERK OF THE APPELLATE DIVISION

³ In view of our disposition of plaintiff's argument on its merits, we need not address defendant's argument that plaintiff's post-verdict motion should have been dismissed because it was untimely filed.