



Harrison v. Best Buy Stores

2009 | Cited 0 times | New Jersey Superior Court | January 6, 2009

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Submitted December 16, 2008

Before Judges Skillman and Graves.

Plaintiff Donna L. Harrison appeals from an order dated February 29, 2008, dismissing her complaint with prejudice "pursuant to Rules 4:23-5(a)(2) and 6:4-6(c)," because she failed to answer interrogatories and she failed to respond to a notice to produce. We affirm.

In a Special Civil Part complaint filed on December 7, 2006, plaintiff alleged that she lost valuable business data and documents when defendant Best Buy Stores, L.P. (Best Buy) "destroyed" her computer:

I took my Compaq laptop computer to Best Buy's Geek Squad to simply have it analyzed as I was having intermittent problems, and as a result of these problems, I wanted the data backed up as a safeguard. I am a Financial Consultant and rely heavily on the files I acquired over approx[imately] five (5) years [] as a part of my research library. These files give me the ability to perform my job, produce relevant and knowledgeabl[e] information to clients expeditiously. Backing up my files ensured me that no matter what happened to my computer, I would not [lose] my ability to service the needs of my clients and maintain my livelihood. Unfortunately, my [worst] fear came true however; it was not as a result of the system crashing.

IT WAS A RESULT OF THE GEEK SQUAD'S TOTAL INCOMPETENCE TO PERFORM THE SIMPLE TASK OF COPYING FILES FROM A HARD DRIVE ONTO [A] CD ROM.

Much to my surprise and chagrin, I went to Best Buy with a complete computer, and full set of files, and I walked out with a useless hard drive and two insignificant graphics cards or memory boards. I am suing to recover the following:

1. The depreciated cost of a destroyed computer;
2. The cost charged to me for the unsuccessful service;
3. The cost to find and retype files held in hardcopy or reacquired through network contacts.



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Unfortunately I will never recoup all my personal records, as well as a book I started and miscellaneous files/notes/ pictures/etc. captured and saved over the years, which are lost to me forever.

In May 2007, following a proof hearing, the court entered a default judgment against defendant in the amount of \$15,000. However, on August 17, 2007, the court granted defendant's motion "to vacate default judgment and quash the order for execution against goods and chattels."

On August 28, 2007, Best Buy served plaintiff with interrogatories and a notice to produce and requested a response "within 30 days pursuant to the court rules." Thereafter, on October 5, 2007, November 2, 2007, and December 7, 2007, the court denied motions by plaintiff to reconsider the order that vacated the default judgment.

On November 16, 2007, the court granted defendant's motion to dismiss plaintiff's complaint without prejudice based upon plaintiff's failure to answer interrogatories and to respond to the notice to produce. That order was sent to plaintiff on November 29, 2007. On February 29, 2008, the court granted defendant's motion to dismiss plaintiff's complaint with prejudice based upon plaintiff's continued failure to provide discovery.

On appeal, plaintiff presents the following argument:

The Claimant was awarded a default judgment when the Defendant did not appear in court for a preliminary hearing. The default judgment was overturned because it was perceived by the [c]ourt that the Claimant did not object to the Defendant's motion to vacate the default judgment, when in fact the Claimant did respond. The perception was created because the Court Administration made clerical errors when filing the Claimant's answer. These errors directly affected the outcome of the case in that it enabled the [c]ourt to liberally grant the Defendant's meritorious defense and excusable neglect; thereby ignoring the indisputable evidence presented by the Claimant and allowing the misrepresentation of evidence to prevail. The [c]ourt refused to give the Claimant any leniency toward investigating the error. This lack of consideration ultimately [led] to the dismissal of the case. The Claimant addressed this error in several motions, and if investigated, the default judgment would not have been vacated.

It must also be argued that the entire deliberation after the default judgment was awarded be stricken. Judge Velasquez should not have presided because he los[t] his jurisdiction when he requested that another [j]udge sit in for him due to a scheduling conflict. It would then follow that since Judge O'Connor awarded the judgment, he should have reviewed the ensuing motions that challenged his ruling.

Thus, plaintiff does not dispute that she failed to respond to defendant's legitimate discovery demands. Under these circumstances, the trial court's rulings were unexceptional, and plaintiff's



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contentions are without sufficient merit to warrant extended discussion in a written opinion. R. 2:11-3(E)(1)(e).

Affirmed.

1. Improperly pleaded as Best Buys.

