

CAROLYN BAILEY

PLAINTIFF

-against-

ZUCKER, GOLDBERG & ACKERMAN, LLC;

(A New Jersey Law Firm)

MICHAEL S. ACKERMAN, ESQ.

In His Role As Managing Partner for
Zucker, Goldberg & Ackerman, LLC, And
In His Individual Capacity

JOHN DOES 1-100

DEFENDANTS

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, ESSEX COUNTY**

Civil Action

DOCKET NO. ESX-L-8231-13

**NOTICE OF MOTION TO
RECONSIDER GRANTING
DEFENDANTS' MOTIONS
TO DISMISS
PURSUANT TO R. 4:50-1**

(ORAL ARGUMENT REQUESTED)

TO: Andrew C. Sayles, Esq.
Steven A. Kroll, Esq.
Connell Foley LLP
85 Livingston Avenue
Roseland, New Jersey 07068

PLEASE TAKE NOTICE that the undersigned, Carolyn Bailey, Plaintiff and Private Attorney General, shall apply to the Superior Court of New Jersey, Law Division, Essex County, at the Courthouse located at 470 Martin Luther King, Jr. Blvd., Newark, New Jersey 07102 on **Friday, July 25, 2014**, at nine o'clock in the forenoon, or as soon thereafter as Plaintiff may be

heard for an Order, pursuant to R. 4:50-1, reversing the granting of Defendants' Motions to Dismiss on June 20, 2014. **Oral argument is respectfully requested.**

A Certification of Plaintiff and letter brief in support of the Motion to Reconsider, are annexed hereto.

Pursuant to R. 1:6-2(a), a copy of the proposed Order is annexed hereto and the Motion shall be deemed uncontested unless responsive papers are timely filed and served stating with particularity the basis of the opposition to the relief sought.

There is no arbitration date or trial date. The discovery end date is March 13, 2015.

I HEREBY CERTIFY that the original of the within Notice of Motion has been filed directly with the Civil Motions Clerk of Essex County, and that a copy of the same has been transmitted to all parties.

Date: July 9, 2014

Signature: _____

Carolyn Bailey, Plaintiff and Private Attorney General

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**SUPERIOR COURT OF NEW JERSEY
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Civil Action

DOCKET NO. ESX-L-8231-13

CERTIFICATION OF PLAINTIFF

IN SUPPORT OF

MOTION TO RECONSIDER

GRANTING DEFENDANTS'

MOTIONS TO DISMISS

(ORAL ARGUMENT REQUESTED)

I, CAROLYN BAILEY, do hereby beseech the Court to reconsider and reverse its decision to grant Defendants' Motions to Dismiss.

1. The Court's June 20, 2014 decision to grant the Motions was based on three factors:

A) The Court determined that Zucker Goldberg and Michael Ackerman were not at fault.

B) The Plaintiff did not provide an Affidavit of Merit.

C) The Court found no basis or proof for Plaintiff's damages.

2. Plaintiff respectfully request that the Court reconsider whether:

A) The issue of fault on the part of Zucker Goldberg and Michael Ackerman is a question best left to the jury.

B) It is an error to conclude that an Affidavit of Merit is required for a debt collector that happened to also be a law firm or attorney, since "debt collector" is not among the specific categories listed in NJSA 2A:53A-26.

C) Any damages sustained by Plaintiff should be left to a determination by the jury.

WHEREFORE PLAINTIFF BESEECHES the Court to:

1) Reverse its dismissals,

2) Permit Plaintiff to Amend her Complaint to include newly discovered RICO wrong doings of the Defendants, pursuant to R. 4:50-1, and,

3) Schedule a conference to establish a pre-trial calendar.

A good faith attempt to avoid the filing of this Motion, pursuant to R. 1:6-2(c), was made without success, by a phone call to Defendants' counsels on June 20, 2014, followed up by correspondence.

I certify that the foregoing statements made by me are true and that if any of the statements are willfully false, I am subject to punishment.

Date: July 9, 2014

Signature: _____

Carolyn Bailey, Plaintiff and Private Attorney General

CERTIFICATION OF SERVICE AND MAILING

On July 9, 2014, I served the annexed original and a copy of the **NOTICE OF MOTION TO RECONSIDER, CERTIFICATION OF PLAINTIFF, LETTER BRIEF, AND PROPOSED ORDER** to the following:

Clerk, Law Division
Essex County Superior Court
50 W. Market Street
Newark, New Jersey 07102

A true and accurate copy of the above **Motion** and related filings were served via certified mail with return receipt requested to the following:

Andrew C. Sayles, Esq.
Steven A. Kroll, Esq.
Connell Foley LLP
85 Livingston Avenue
Roseland, New Jersey 07068
Certified # 7012 3050 0001 5761 5300

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: July 9, 2014

Signature: _____

Carolyn Bailey, Plaintiff and Private Attorney General

CAROLYN BAILEY

PLAINTIFF

-against-

ZUCKER, GOLDBERG & ACKERMAN, LLC;

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DEFENDANTS

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, ESSEX COUNTY**

Civil Action

DOCKET NO. ESX-L-8231-13

ORDER

THIS MATTER having been opened to the Court on Plaintiff's Motion To Reconsider
the granting of Defendants' Motions to Dismiss on June 20, 2014, _____

IT IS ON THIS _____ **DAY OF** _____, 201____,

ORDERED that _____

AND IT IS FURTHER ORDERED that a copy of this Order shall be served upon all
parties within _____ days of receipt.

_____ J.S.C.

[] UNOPPOSED [] OPPOSED

July 9, 2014

The Honorable James S. Rothchild, Jr., J.S.C.
Essex County Superior Court
470 Martin Luther King, Jr. Blvd.
Newark, New Jersey 07102

RE: Bailey v. Zucker Goldberg, Docket # ESX-L 8231-13
Superior Court of New Jersey Law Division, Essex County

Dear Judge Rothchild:

Please accept this letter brief in lieu of a more formal brief in support of Plaintiff's Motion to Reconsider the Court's granting the Defendants' Motions to Dismiss, on June 20, 2014.

Oral argument is respectfully requested.

The role of the jury is to apply the law to the facts of a particular case, and then determine damages. Plaintiff respectfully submits that in this present case the **Court usurped the role of the jury** and granted the Motions to Dismiss and tabulated damages prior to identifying the applicable laws. Not only that, but the decision was contrary to the facts laid out in the Complaint, and/or, Plaintiff's assertion of **newly discovered wrongdoings of Defendants in violation of the RICO statutes**. In addition, the determination of the requirement for an Affidavit of Merit did not comply with Plaintiff's assertion that Defendants served as **debt collectors**.

For these and other reasons, Plaintiff seeks the Court's review and reversal of its decision granting Defendants' Motions to Dismiss.

Sincerely,

/s/ Carolyn Bailey, Plaintiff
and Private Attorney General

cc: Andrew C. Sayles, Esq and Steven A. Kroll, Esq. of Connell Foley LLP
Certified Mail # 7012 3050 0001 5761 5300