

NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4659-12T3

JOHN BLEEKER,

Plaintiff-Appellant,

v.

BOROUGH OF NORTH HALEDON, a
Municipal Corporation of the
State of New Jersey, RANDY
GEORGE, Individually and as
The Mayor of the Borough of
North Haledon, RAYMOND MELONE,
DONNA PUGLISI, ROCCO LUISI and
ELAINE VUONCINO, Individually
and as Members of the Borough
of North Haledon Council,

Defendants-Respondents.

Argued July 1, 2014 – Decided September 25, 2014

Before Judges Espinosa and Kennedy.

On appeal from Superior Court of New Jersey,
Law Division, Passaic County, Docket No. L-
4011-12.

John J. Segreto argued the cause for
appellant John Bleeker (Segreto, Segreto &
Segreto, attorneys; Mr. Segreto, of counsel
and on the brief).

Steven Siegel argued the cause for
respondent Borough of North Haledon (Sokol,
Behot & Fiorenzo, attorneys; Joseph B.
Fiorenzo, of counsel and on the brief; Mr.
Siegel, on the brief).

Laurence B. Orloff argued the cause for respondents Raymond Melone, Donna Puglisi, Rocco Luisi and Elaine Vuoncino (Orloff, Lowenbach, Stifelman & Siegel, P.A., attorneys (Mr. Orloff, of counsel and on the brief; Craig A. Ollenschleger, on the brief).

PER CURIAM

Plaintiff, a resident of North Haledon, appeals from the Law Division's order dismissing his complaint in lieu of prerogative writs against the Borough of North Haledon, its Mayor and members of the Municipal Council. The complaint sought to compel the borough to enforce a municipal ordinance adopted in 1992 permitting elected officials of the borough to participate in its "employer group insurance contracts" but requiring such elected officials to "reimburse the [b]orough for the costs" incurred by their participation. The complaint alleged that the individual defendants, as elected officials of the municipality, received health insurance coverage paid for by the borough, but failed to reimburse the municipality for the costs incurred, as required by ordinance. In addition to seeking to compel the borough to enforce the ordinance, the complaint also sought to require the individual defendants to reimburse the borough for their health coverage costs.

The Law Division judge dismissed the complaint on April 25, 2013, in accordance with his fifteen-page written opinion. Plaintiff appeals and raises the following arguments:

POINT I

THE TRIAL COURT COMMITTED ERROR BY DECIDING THE DEFENDANTS' MOTION FOR DISMISSAL PURSUANT TO R. 4:6-2 RATHER THAN FOR SUMMARY JUDGMENT PURSUANT TO R. 4:46.

POINT II

THE TRIAL COURT'S CONCLUSION THAT ORDINANCE #11-1992 APPLIES ONLY TO 'GROUP HEALTH INSURANCE CONTRACTS' AND NOT THE STATE HEALTH BENEFITS PROGRAM IS ERRONEOUS.

POINT III

THE BOROUGH IS NOT PROHIBITED FROM REQUIRING ELECTED OFFICIALS TO REIMBURSE THE BOROUGH FOR THE COST OF THEIR HEALTH INSURANCE UNDER THE SHBP.

POINT IV

THE TRIAL COURT'S CONCLUSION THAT THE INDIVIDUAL DEFENDANTS WERE ELIGIBLE FOR COVERAGE AFTER THE AMENDMENTS TO THE STATE HEALTH BENEFITS ACT EFFECTIVE MAY 21, 2010 IS ERRONEOUS.

POINT V

THE STATE HEALTH BENEFITS COUNCIL'S REFUSAL TO PARTICIPATE IN THE CONTROVERSY SHOULD HAVE BEEN CONSIDERED IN A LIGHT MOST FAVORABLE TO THE PLAINTIFF WHO WAS OPPOSING THE MOTIONS FOR SUMMARY JUDGMENT.

We have considered these arguments in light of the record and we affirm essentially for the reasons set forth by the Law Division judge in his thorough and thoughtful written opinion. We add only the following.

In 2001, the municipal council adopted a resolution cancelling its health coverage policy with a private insurer, and simultaneously enrolling in the State Health Benefits Program (Program), subject to statute and state regulations. See N.J.S.A. 52:14-17.25 to -17.45. Under those regulations, elected officials are municipal employees eligible for coverage. See N.J.A.C. 17:9-4.5(a). The Program provides that, to avoid discrimination, the employer must pay the premium for its employees and must pay the same percentage for coverage premiums for dependents that it pays for all its employees. In other words, elected officials who participate cannot be required to pay for coverage unless all other municipal employees are required to do so.

The Law Division judge dismissed plaintiff's suit under Rule 4:6-2(e), having determined that the ordinance applies to "group insurance contracts" only, and that the State Program is not a "group insurance contract." Heaton v. State Health Benefits Comm'n, 264 N.J. Super. 141, 150 (App. Div. 1993) (State Health Program is not an "insurance policy"). We agree. Plaintiff's remaining arguments on appeal are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

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

CLERK OF THE APPELLATE DIVISION