Plaintiff,

v.

TOWNSHIP OF UNION,

Defendant.

OPINION

LINARES, Chief District Judge

This matter comes before the Court by way of Defendant Township of Union's motion for judgment as a matter of law ("JMOL") or, alternatively, for a new trial pursuant to Federal Rules of Civil Procedure 50(b) and 59. (ECF No. 390). Plaintiff, Maryanne Cosimano, has opposed Defendant's motion, (ECF No. 392), and Defendant has replied thereto. (ECF No. 395). The Court has reviewed the parties' submissions and decides this matter without oral argument pursuant to Federal Rule of Civil Procedure 78. For the reasons discussed below, Defendant's motion is denied.

I. BACKGROUND

Both the parties and this Court are quite familiar with the facts of this case. Accordingly, the Court will only discuss the facts herein to the extent necessary to resolve Defendant's motion. The second trial in the above-captioned matter commenced on April 2, 2018. (ECF No. 370). On April 4, 2018, outside the presence of the jury, Defendant moved for JMOL pursuant to Federal Rule of Civil Procedure 50(a). The Court then heard oral argument on Defendant's motion. The Court reserved judgment on the motion and granted Defendant permission to renew its motion at

April 18, 2018. (ECF No. 382). Defendant now moves again for JMOL, or alternatively, for a new trial.

II. LEGAL STANDARD

A court may grant a motion for JMOL under Rule 50(a) only if, after hearing the plaintiff's case in full, the "the court finds that a reasonable jury would not have a legally sufficient evidentiary basis to find for the party on that issue." Fed. R. Civ. P. 50(a)(1). The Court must make this assessment viewing the evidence in the light most favorable to the nonmoving party and giving the nonmovant the advantage of every fair and reasonable inference. *Wittekamp v. Gulf & W., Inc.*, 991 F.2d 1137, 1141 (3d Cir. 1993). "Although judgment as a matter of law should be granted sparingly," a scintilla of evidence is not enough to sustain a verdict of liability. *Walter v. Holiday Inns, Inc.*, 985 F.2d 1232, 1238 (3d Cir. 1993). "The question is not whether there is literally no evidence supporting the party against whom the motion is directed but whether there is evidence upon which the jury could properly find a verdict for that party." *Patzig v. O'Neil*, 577 F.2d 841, 846 (3d Cir. 1978). "Thus, although the Court draws all reasonable and logical inferences in the nonmovant's favor," an order granting judgment as a matter of law is appropriate if, "upon review of the record, it is apparent that the verdict is not supported by legally sufficient evidence." *Lighting Lube, Inc. v. Witco Corp.*, 4 F.3d 1153, 1166 (3d Cir. 1993).

A motion for JMOL that follows a jury verdict "may include an alternative or joint request for a new trial under Rule 59." Fed. R. Civ. P. 50(b). Federal Rule of Civil Procedure 59(a) provides that:

the grounds on which a new trial may be granted, the following grounds have been recognized by this Circuit: "the verdict is against the clear weight of the evidence; damages are excessive; the trial was unfair; and that substantial errors were made in the admission or rejection of evidence or the giving or refusal of instructions." *Lightning Lube, Inc. v. Witco Corp.*, 802 F. Supp. 1180, 1186 (D.N.J. 1992) (citations omitted), *aff'd* 4 F.3d 1153 (3d Cir. 1993).

When reviewing a motion for a new trial, a court must view the evidence in the light most favorable to the party for whom the verdict was returned. *Wagner v. Firestone Tire & Rubber Co.*, 890 F.2d 652, 656 (3d Cir. 1989). Where a motion for a new trial is based primarily on the weight of the evidence, the discretion of the trial court is limited. *Greenleaf v. Garlock, Inc.*, 174 F.3d 352, 366 (3d Cir. 1999); *Klein v. Hollings*, 992 F.2d 1285, 1290 (3d Cir. 1993). Indeed, "new trials because the verdict is against the weight of the evidence are proper only when the record shows that the jury's verdict resulted in a miscarriage of justice or where the verdict, on the record, cries out to be overturned or shocks [the] conscience." *Williamson v. Consol. Rail Corp.*, 926 F.2d 1344, 1353 (3d Cir. 1991). Although a court is permitted to consider the credibility of trial witnesses and to weigh evidence, it must "exercise restraint to avoid usurping the jury's primary function." *Hurley v. Atl. City Police Dep't*, 933 F. Supp. 396, 403 (D.N.J. 1996), *aff'd* 174 F.3d 95 (3d Cir. 1999).

lacks subject matter jurisdiction over Plaintiff's NJLAD claim pursuant to the *Rooker-Feldman* doctrine. (ECF No. 390-1 at 22–47). The Court disagrees with both arguments.

Defendant's contention that Plaintiff failed to establish her claim of gender discrimination under NJLAD is duplicative of the motion for JMOL on which the Court already heard oral argument. The Court has already issued an Opinion explaining at length why Plaintiff has credibly established her claim of gender discrimination under NJLAD, such that a reasonable jury could find in Plaintiff's favor with respect to her NJLAD claim. (*See* ECF No. 382). The Court need not conduct the same analysis again.

With respect to Defendant's *Rooker-Feldman* argument, the Court respectfully points to its Opinion on Defendant's motion for JMOL or for a new trial at the conclusion of the first trial in this case. (ECF No. 337). At the conclusion of the first trial, Defendant also argued that the *Rooker-Feldman* doctrine barred this Court from hearing Plaintiff's NJLAD sex discrimination claim. There, the Court engaged in a three-page analysis and concluded that "the ruling of the arbitrator and the Superior Court of New Jersey's subsequent judgment in favor of the Township with respect to the CNA, did not divest this Court of subject matter jurisdiction over this action." (ECF No. 337 at 8-11). As there are no factors that have changed between the first trial and the second trial in this matter that would alter the Court's *Rooker-Feldman* analysis, it relies on its prior Opinion in concluding that it properly possesses subject matter jurisdiction over this case.

Defendant's first argument, Defendant reiterates that Plaintiff set forth no evidence proving that Defendant's legitimate, non-discriminatory reason for denying Plaintiff lifetime health benefits was a pretext. (ECF No. 390-1 at 47–48). As this Court has already determined above that a reasonable jury could conclude that Plaintiff has proven her case of gender discrimination under NJLAD, the jury's verdict finding the same does not warrant a new trial.

Defendant next sets forth two evidentiary objections that it believes warrant a new trial. The first is that the Court erred in allowing Plaintiff to present evidence relating to Paul Bruno, because Mr. Bruno was not "similarly situated" to Plaintiff under applicable law. (ECF No. 390-1 at 48–49). The Court has addressed this very same argument many times before and concluded that Mr. Bruno is similarly situated to Plaintiff. (*See* ECF No. 382 at 4–5; ECF No. 337 at 5–6; ECF No. 295 at 2). Once again, the Court sees no reason to depart from its prior rulings.

Defendant's second objection is that the Court erred in barring Defendant from presenting evidence of the Cosimano and Garretson arbitration awards and the state court judgments confirming those arbitration awards. (ECF No. 390-1 at 50–59).[1] Defendant argues that the Court's decision in its August 1, 2016 Opinion barring the introduction of the arbitration awards but allowing Defendant to inform "the jury of the award in another manner that complies with the

[1] The Court declines to address Defendant's arguments in this section related to the Garretson arbitration award. This Court previously ruled that "[b]ecause the Court has already determined that Plaintiff will be precluded from re-litigating the issue of her entitlement to retiree health benefits under the terms of the [CNA], Defendant['s] argument that the Garretson award is relevant to the contractual interpretation issue is moot." (ECF No. 197 at 8). Defendant has not presented the Court with any new arguments that would persuade the Court that this initial ruling was erroneous.

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