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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROSANNA MAYO-COLEMAN, *Plaintiff*, *-against-* AMERICAN SUGAR HOLDINGS, INC., *Defendant*.	:	14-cv-79 (PAC) **OPINION & ORDER**

HONORABLE PAUL A. CROTTY, United States District Judge:

Following a four-day jury trial, the jury returned a verdict in favor of Plaintiff Rosanna Mayo-Coleman on her sole claim that Defendant American Sugar Holdings, Inc. subjected her to a hostile work environment in violation of both Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. ("Title VII") and the New York State Human Rights Law, N.Y. Exec. Law § 290, et seq. ("NYSHRL"), due to her sexual harassment by her supervisor. The jury awarded Plaintiff $1.7 million in compensatory damages and $11.7 million in punitive damages. Since the standard of proof for both statutes is the same, the jury was not asked to distinguish between the Title VII and NYSHRL claims when awarding damages.

The NYSHRL does not provide for punitive damages, however, and Title VII caps the sum of compensatory and punitive damages at $300,000. Accordingly, Plaintiff moves to conform the verdict by allocating $1,699,999 of her compensatory damages award to the uncapped NYSHRL claim and the remaining $1 in compensatory damages to the Title VII claim (for a total of $1.7 million in compensatory damages), allowing her to recover $299,999 in punitive damages under the Title VII claim. In this way, Plaintiff seeks to recover a total of $1,999,999. Defendant contends that Plaintiff is entitled to no more than $30,000 in

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compensatory damages and no punitive damages. Hence, Defendant moves under Federal Rules of Civil Procedure 50 and 59 for either a new trial on damages or, in the alternative, a remittitur of the compensatory damages and vacatur or remittitur of the punitive damages. For the following reasons, the Court GRANTS Plaintiff's motion to conform the verdict, GRANTS Defendant's request to remit the compensatory damages, and DENIES Defendant's request to vacate or remit the punitive damages.

LEGAL STANDARD

Under Rule 50, a court may grant judgment as a matter of law to the moving party after the jury has found in favor of the non-moving party on an issue where there is no "legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue." Fed. R. Civ. P. 50(a)(1). Judgment as a matter of law is proper only upon a finding that:

> (1) there is such a complete absence of evidence supporting the verdict that the jury's findings could only have been the result of sheer surmise and conjecture, or (2) there is such an overwhelming amount of evidence in favor of the movant that reasonable and fair minded persons could not arrive at a verdict against it.

Cruz v. Local Union No. 3, 34 F.3d 1148, 1154 (2d Cir. 1994) (quotation and alterations omitted). In contrast, a motion for a new trial under Rule 59 may be granted when, in the court's opinion, "the jury has reached a seriously erroneous result or the verdict is a miscarriage of justice." *Song v. Ives Labs., Inc.*, 957 F.2d 1041, 1047 (2d Cir. 1992) (quotation and alterations omitted).

In considering such a motion, the court normally is free to weigh the evidence itself and need not view it in the light most favorable to the prevailing party. *Id.* When considering whether a damages award is excessive, however, all evidence and factual inferences are to be construed in favor of the non-movant and the court is to give considerable deference to the jury's determinations. *Scala v. Moore McCormack Lines, Inc.*, 985 F.2d 680, 683 (2d Cir. 1993).

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Furthermore, the Seventh Amendment prohibits courts from simply reducing a jury's award of damages. *Id.* at 684. Rather, "[i]f a district court finds that a verdict is excessive, it may order a new trial, a new trial limited to damages, or, under the practice of remittitur, may condition a denial of a motion for a new trial on the plaintiff's accepting damages in a reduced amount." *Tingley Systems, Inc. v. Norse Systems, Inc.*, 49 F.3d 93, 96 (2d Cir. 1995). "Where the basis for the remittitur order is the district court's view that the award is intrinsically excessive, i.e., is greater than the amount a reasonable jury could have awarded but the excess is not attributable to a discernible error, the court should reduce the award only to the maximum amount that would be . . . not excessive." *Rangolan v. Cnty. of Nassau*, 370 F.3d 239, 244 (2d Cir. 2004) (quotations and citations omitted).

DISCUSSION

A. Allocation of Compensatory and Punitive Damages

There is no cap on compensatory damages for claims arising under the NYSHRL; but punitive damages are unavailable, except in cases of housing discrimination. *See* N.Y. Exec. Law § 297(9); *Thoreson v. Penthouse Int'l, Ltd.*, 606 N.E.2d 1369, 1372-73 (N.Y. 1992). The sum of compensatory and punitive damages for claims arising under Title VII is limited to $300,000 where, as here, the defendant has more than 500 employees. *See* 42 U.S.C. § 1981a(b)(3). Nevertheless, a plaintiff that recovers a single award under parallel statutes may "be paid under the theory of liability that provides the most complete recovery." *Magee v. United States Lines, Inc.*, 976 F.2d 821, 822 (2d Cir. 1992). Hence, courts regularly allocate all, or nearly all, of the compensatory damages to the state law claims and the punitive damages to the Title VII claims in order to maximize plaintiffs' recovery by removing the compensatory damages from Title VII's statutory cap. *See, e.g.*, *Anderson v. YARP Rest., Inc.*, No. 94-cv-7543,

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1997 WL 27043, at *7 (S.D.N.Y. 1997) (allocating entire $65,000 in compensatory damages to NYSHRL claim and entire $50,000 in punitive damages to Title VII claim in order to "permit[] plaintiff to receive the full amount awarded by the jury without exceeding the legal limits placed upon sexual harassment claims under Title VII and the HRL"); *Torres v. Carribean Forms Mfr.*, 286 F. Supp. 2d 209, 218-19 (D.P.R. 2003), *aff'd and remanded sub nom. Rodriguez Torres v. Carribean Forms Mfr., Inc.*, 399 F.3d 52 (1st Cir. 2005) (allocating $1 in compensatory damages to Title VII claim "so as to allow for the imposition of punitive damages under said statute," allocating the remaining $249,999 in compensatory damages to state law claims, and allocating $199,999 in punitive damages to Title VII claim). Plaintiff's motion requests such an allocation.

Defendant's sole objection to Plaintiff's motion is that it is premature. Defendant argues that there can be no allocation of damages until the Court rules on Defendant's motion for a new trial on damages or, in the alternative, a remittitur of the compensatory damages and vacatur of the punitive damages. Defendant cites no caselaw in support of this argument, and there is no reason why the Court cannot grant Plaintiff's motion before turning to Defendant's motion and deciding whether the damages should be further remitted or vacated. Indeed, courts regularly rule on both types of motions at the same time. *See, e.g.*, *Anderson*, 1997 WL 27043, at *6-9 (ruling on allocation of damages and remittitur); *Luciano v. Olsten Corp.*, 912 F. Supp. 663, 669-76 (E.D.N.Y. 1996) (ruling on allocation of damages and vacatur). Thus, in order to provide Plaintiff with the opportunity for the most complete recovery, the Court allocates $1 of the compensatory damages award to the Title VII claim, allocates the remaining $1,699,999 of the compensatory damages award to the NYSHRL claim, allocates the entire punitive damages award to Title VII, and reduces the punitive damages award from $11.7 million to $299,999 in light of Title VII's statutory cap.

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B. Remittitur of Compensatory Damages

Defendant argues that the jury's $1.7 million award of compensatory damages for emotional distress is excessive and should be remitted to $30,000 or less. Because $1,699,999 of the award is allocated to the NYSHRL claim, the Court evaluates the excessiveness of the award under New York law. *See Stampf v. Long Island R.R.*, 761 F.3d 192, 204 (2d Cir. 2014); *Anderson*, 1997 WL 27043, at *8. Under New York law, a court "shall determine that an award is excessive or inadequate if it deviates materially from what would be reasonable compensation." N.Y. C.P.L.R. § 5501(c). This "deviates materially" standard is different from the "shock the conscience" standard for reviewing jury verdicts in federal claims, and it allows courts to more closely scrutinize jury awards. *See Gasperini v. Ctr. for Humanities*, 518 U.S. 415, 422-24 (1996). "To determine whether a jury award is excessive within the meaning of § 5501(c), New York courts compare it with awards in similar cases." *Stampf*, 761 F.3d at 204. In making this comparison, courts consider "the duration of a complainant's condition, its severity or consequences, any physical manifestations, and any medical treatment." *In re New York City Transit Auth.*, 577 N.E.2d 40, 55 (N.Y. 1991). Further, emotional distress damages must be "reasonably related to the wrongdoing" of the defendant. *Id.*

For claims arising under the NYSHRL, "the range of acceptable damages for emotional distress in adverse employment action cases lacking extraordinary circumstances seems to be from around $30,000 to $125,000." *Watson v. E.S. Sutton, Inc.*, No. 02-cv-2739, 2005 U.S. Dist. LEXIS 31578, at * 46-47 (S.D.N.Y. 2005). The cases in which courts permit higher damages typically involve medical treatment and physical manifestation of symptoms such as "continued shock, nightmares, sleeplessness, weight loss, or humiliation, or of an inability to apply for a new position or to enjoy life in general." *See id.* at *44 (noting that decisions "approving multi-

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