

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ELISA S. GALLO, MD,

Plaintiff,

v.

ORDER

MAYO CLINIC HEALTH SYSTEM—FRANCISCAN
MEDICAL CENTER, INC. and
MICHAEL WHITE, MD,

15-cv-304-jdp

Defendants.

Plaintiff Elisa S. Gallo seeks reconsideration of the court's summary judgment decision under Federal Rules of Civil Procedure 52(b) and 59(e). Dkt. 104.

To succeed on a motion under these rules, Gallo would need to show a change in the law, new evidence, or a manifest error of law or fact. *Schroeder v. Drankiewicz*, No. 10-cv-232, 2012 WL 1593961, at *1 (E.D. Wis. May 4, 2012). Post-judgment motions promote efficiency by allowing district judges to fix their own errors, but they are not a chance for the losing party to make new arguments or to put a new spin on the facts before making an appeal. *See Havoco of Am., Ltd. v. Sumitomo Corp. of Am.*, 971 F.2d 1332, 1336-37 (7th Cir. 1992).

Gallo points to no change in the law or new evidence; she contends that the summary judgment decision has manifest errors. I have reviewed Gallo's motion and the summary judgment decision, and I see no manifest error. Some of her arguments are slight variations from those she made in response to defendant's motion for summary judgment. To the extent that she is advancing new legal theories, new theories are not appropriately raised under a

post-judgment motion. But for the most part, Gallo's motion simply reargues issues that were discussed thoroughly in the summary judgment decision.

Gallo's motion takes a selective and superficial view of the summary judgment record. I'll cite just one example to illustrate the broader problem. Gallo argues now that Dr. Lebwohl sent her an email that showed White's "fair" ratings prevented her from getting the Mount Sinai credentials and the job at Refuah. Dkt. 104, at 10-11. But Gallo ignores the hearsay problem I pointed out. Dkt. 97, at 15. Dr. Lebwohl also does not have first-hand knowledge of the material facts; he based his statements to Gallo on what others told him. Gallo does not have admissible evidence to show that White's "fair" ratings caused her to lose the job at Refuah, and that gap alone is fatal to her case.

ORDER

IT IS ORDERED that plaintiff Elisa S. Gallo's motion for amended findings of fact and conclusions of law and for amended judgment, Dkt. 104, is DENIED.

Entered February 23, 2017.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge