

Gordon v Bayrock Sapir Org., LLC
2017 NY Slip Op 33382(U)
July 5, 2017
Supreme Court, Bronx County
Docket Number: Index No. 21378/2014E
Judge: Doris M. Gonzalez
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

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SHAKERA GORDON,

Plaintiff,

Index No. 21378/2014E

v.

DECISION AND ORDER

BAYROCK SAPIR ORGANIZATION, LLC d/b/a TRUMP
SOHO, JOHN NEUENDORF and DANA SHOLL,

Defendants.
-----X

Recitation, as required by CPLR§2219[a], of the papers considered in the review of this motion:

Papers	Numbered
<u>Notice of Motion and Affirmation</u>	1, 2
<u>Memorandum of Law in Opposition</u>	3
<u>Reply Affirmation</u>	4

The plaintiff moves by Notice of Motion, dated July 18, 2016, by Leopold Raic, Esq., Attorney for the plaintiff, to re-argue the Decision and Order of this Court, dated June 13, 2016, pursuant to CPLR Rule 2221, and upon such re-argument for an order denying the defendants motion for summary judgment.

The defendant opposes the motion, by Diane Windholz, Esq. and Orla J. McCabe, Esq., Attorneys for the defendants, by Memorandum of Law in Opposition to Plaintiff’s Motion for Reconsideration and to Reargue, dated August 11, 2016. A Reply Affirmation by Leopold Raic, Esq., dated September 13, 2016, was submitted in support of the motion.

FACTUAL BACKGROUND

This is an action to recover damages for racial discrimination, intentional infliction of emotional distress, and assault and battery allegedly sustained by the plaintiff arising from her current employment with defendant Trump Soho. Plaintiff alleges that she was discriminated against because she is African American race, in violation of the New York State Human Rights Law, NY Exec. Law §§ 296 et seq., and the New York City Human Rights Law, NYC Administrative Code §§ 8-107 et seq. The plaintiff also alleges that defendants retaliated against her for engaging in protected activity in violation of the NYSHRL and NYCHRL.

PROCEDURAL HISTORY

The defendants moved by Notice of Motion, dated January 7, 2016, for an order granting summary judgment upon the grounds that the plaintiff was not discriminated against or faced retaliation or a hostile work environment in violation of the New York State Human Rights Law, NY Exec. Law §§ 296 et seq., and the New York City Human Rights Law, NYC Administrative Code §§ 8-107. By order, dated June 13, 2016, this Court granted the defendants' motion for summary judgment.

DISCUSSION OF LAW

Pursuant to NYSHRL, it is unlawful for an employer to refuse to hire or employ, or to fire or to discriminate against an individual in the terms, conditions or privileges of employment because of the individual's race (*see* Executive Law § 296 [1][a]). Title VII affords employees the right to work in an environment free from discriminatory intimidation, ridicule, and insult (*Meritor Savings Bank, FSB v Vinson*, 477 U.S. 57, 66, 106 S. Ct. 2399, 91 L. Ed. 2d 49 [1986]).

Under both the State and City Human Rights Laws, it is unlawful to retaliate against an employee for opposing discriminatory practices (*see* Executive Law § 296[7]; Administrative Code § 8-107[7]). In order to make out a claim, plaintiff must show that (1) she was engaged in protected activity, (2) her employer was aware that she participated in such activity, (3) she suffered an adverse employment action based upon her activity, and (4) there is a causal connection between the protected activity and the adverse action (*Forrest v Jewish Guild for the Blind*, 3 NY3d 295, 312-313, 819 N.E.2d 998, 786 N.Y.S.2d 382 [2004]).

By Order, dated June 13, 2016, this Court previously found that defendant sustained its burden in showing its entitlement to summary judgment and that the plaintiff failed to present any evidence in admissible form showing that the plaintiff was discriminated against, faced retaliation and/or a hostile work environment in violation of the New York State Human Rights Law, NY Exec. Law §§ 296 et seq., and the New York City Human Rights Law, NYC Administrative Code §§ 8-107. The plaintiff argues that this Court misapplied the law and seeks an Order granting reargument and denying summary judgment.

Pursuant to Rule 2221 of the New York Civil Practice Law and Rules, a motion to reargue must be based upon the contention that the Court overlooked or misapprehended relevant facts or misapplied relevant law. Its purpose is not to permit a party to reargue the issues the Court has already decided. (*Foley v Roche*, 68 A.D.2d 558 [1st Dept. 1979]). In the instant matter, the plaintiff has failed to establish that the Court has overlooked or misapprehended relevant facts or misapplied relevant law that would warrant this Court's reconsideration of this Court's prior decision of June 13, 2016.

ACCORDINGLY, after consideration of the foregoing, the applicable law, a review of the Court file, and due deliberation; it is hereby

ORDERED, the plaintiff's motion to reargue is denied in its entirety.

This constitutes the Decision and Order of the Court.

Dated: July 05, 2017
Bronx, New York

ENTER:



HON. DORIS M. GONZALEZ, J.S.C.