Fraser v MTA Long Is. R.R.
2020 NY Slip Op 34883(U)
May 20, 2020
Supreme Court, Suffolk County
Docket Number: Index No. 612183/2018
Judge: Joseph Farneti
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SHORT FORM ORDER INDEX NO. 612183/2018

SUPREME COURT - STATE OF NEW YORK
I.A.S. TERM, PART 37 - SUFFOLK COUNTY

PRESENT:

HON. JOSEPH FARNETI
Acting Justice Supreme Court

CHARMAINE FRASER,

Plaintiff,

-against-

MTA LONG ISLAND RAIL ROAD,

Defendant.

ORIG. RETURN DATE: NOVEMBER 28, 2018
FINAL SUBMISSION DATE: JANUARY 10, 2019
MTN. SEQ. #: 001
MOTION: MG

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Upon the following papers numbered 1 to 6 read on this motion FOR SUMMARY JUDGMENT.
Notice of Motion and supporting papers 1-3; Affirmation in Opposition and supporting papers 4, 5; Memorandum of Law in Reply 6; it is,

ORDERED that the motion by the defendant MTA LONG ISLAND RAIL ROAD for an Order granting summary judgment in its favor is **GRANTED**.

The plaintiff, Charmaine Fraser, is employed by the MTA Long Island Railroad. On January 3, 2013, Plaintiff filed an amended complaint against the defendant in the United States District Court for the Eastern District of New York alleging gender discrimination and retaliation under Title VII of the Civil Rights Act of 1964, 42 USC §§ 2000e *et seq.*, as amended ("Title VII"), the New York State Human Rights Law, N.Y. Executive Law § 290 *et seq.* ("NYSHRL"); the New York City Human Rights Law, N.Y. Admin Code § 8-101 *et seq.* (the "NYCHRL"), as well as violations of the Equal Pay Act of 1963, 29 USC § 206 (d) (the "EPA") and the New York State Equal Pay Law, N.Y. Labor Law § 194 (the "NYEPL"). The amended complaint alleged that the LIRR violated her rights in gender discrimination and retaliation.

The parties conducted extensive discovery, including depositions. By Order dated March 31, 2018, the District Court, Hon. Kiyo A. Matsumoto (hereinafter "Order 1"), granted the LIRR's summary judgment motion with respect to the Title VII, NYSHRL and EPA claims, and dismissed the NYEPL and NYCHRL claims without prejudice.

On or about December 11, 2014, Plaintiff filed a complaint in the EDNY against the LIRR alleging retaliation under the Title VII, the NYSHRL and the NYCHRL for rejecting five job applications she made to the LIRR between July 2012 and July 2014. After extensive discovery, LIRR moved for summary judgment. By Order dated March 31, 2018 (hereinafter "Order 2"), the Hon. Kiyo A. Matsumoto granted the LIRR's motion for summary judgment with respect to the Title VII and NYSHRL retaliation claims and dismissed the NYCHRL retaliation claims without prejudice.

Thereafter, on August 16, 2018, Plaintiff commenced the instant state action based upon the same exact events as addressed in both dismissed federal actions. The complaint alleged that LIRR violated Plaintiff's rights under the NYEPL and NYCHRL, and sets forth the exact allegations that were contained within Plaintiff's Federal action. In essence, Plaintiff alleges that she was discriminated against by virtue of her sex, in that she was excluded from meetings, that she was paid less than her male predecessor's salary, that she was transferred to Manager-Hours of Service, that the LIRR created a hostile work environment and that the LIRR retaliated against her for filing a complaint.

The defendants now move for summary judgment on the grounds that Plaintiff's claims are barred by the doctrines of *res judicata* and collateral estoppel or are otherwise not actionable. Defendant's submissions in support of its motion include copies of both the New York state and Federal Court pleadings, copies of both decisions of EDNY Hon. Kiyo A. Matsumoto, copies of the transcripts from the depositions and memorandum of law in support of the motion.

Plaintiff opposes the motion arguing that collateral estoppel is inapplicable because there are more liberal standards to apply in the state court than that which the federal court utilized. Plaintiff further argues that she established a *prima facie* case of gender discrimination and retaliation and therefore triable issues of fact remain for the court to decide.

The proponent of a summary judgment motion must make a *prima facie* showing of entitlement to judgment as a matter of law, tendering sufficient

evidence to eliminate any material issue of fact (*see* ***Alvarez v Prospect Hospital***, 68 NY2d 320, 508 NYS2d 923 [1986]; ***Winegrad v New York Univ. Med. Ctr.***, 64 NY2d 851, 487 NYS2d 316 [1985]). The burden then shifts to the party opposing the motion which must produce evidentiary proof in admissible form sufficient to require a trial of the material issues of fact (***Roth v Barreto***, 289 AD2d 557, 735 NYS2d 197 [2d Dept 2001]; ***Rebecchi v Whitmore***, 172 AD2d 600, 568 NYS2d 423 [2d Dept 1991]; ***O'Neill v Fishkill***, 134 AD2d 487, 521 NYS2d 272 [2d Dept 1987]). Furthermore, the parties' competing interest must be viewed "in a light most favorable to the party opposing the motion" (***Marine Midland Bank, N.A. v Dino & Artie's Automatic Transmission Co.***, 168 AD2d 610, 563 NYS2d 449 [2d Dept 1990]).

Collateral estoppel, a corollary to the doctrine of *res judicata*, "precludes a party from relitigating in a subsequent action or proceeding an issue clearly raised in a prior action or proceeding and decided against that party or those in privity, whether or not the tribunals or causes of action are the same" (***Ryan v New York Tel. Co.***, 62 NY2d 494, 500, 478 NYS2d 823 [1984]). The two basic requirements of the doctrine are that the party seeking to invoke collateral estoppel must prove that the identical issue was necessarily decided in the prior action and is decisive in the present action, and that the party to be precluded from re-litigating the issue had a full and fair opportunity to contest the prior determination (***Tydings v Greenfield, Stein & Senior, LLP***, 11 NY3d 195, 868 NYS2d 563 [2008]; ***D'Arata v New York Cent. Mut. Fire Ins. Co.***, 76 NY2d 659, 563 NYS2d 24 [1990]; ***Mahler v Campagna***, 60 AD3d 1009, 876 NYS2d 143 [2d Dept 2009]). Thus, it is the defendants' burden to establish that the identical issue was necessarily decided in the prior action and that it is determinative in the present action (*see* ***Buechel v Bain***, 97 NY2d 295, 740 NYS2d 252 [2001]). Once the party invoking the doctrine discharges his or her burden in that regard, the party to be estopped bears the burden of demonstrating the absence of a full and fair opportunity to contest the prior determination (*id.* at 304, 740 NYS2d at 257). Moreover, an issue need not have been "actually litigated" in that evidence was offered on the point in order to satisfy the identity if issues requirement (*see* ***Linden Airport Mgmnt Corp. v NYC Econ. Dev. Corp.***, 211 U.S. Dist. Lexis 60283 17 [SDNY 2011]). Here, the documentary evidence clearly indicates that the identical issues have been determined and that Plaintiff had a full and fair opportunity to contest the matter.

A review of the documentary evidence reflects that the complaints filed in the federal court and the instant complaint are identical, involving the exact same allegations and dates on which those allegations allegedly took place. Moreover, those issues were previously decided in the federal action, as evinced by Order 1 and Order 2. While the District Court dismissed the NYCHRL

claim without prejudice, Plaintiff's state claims under NYCHRL must be dismissed pursuant to collateral estoppel because the District Court conclusively established that there was no discriminatory or retaliatory animus in any action taken by the LIRR. Where a federal court declines to exercise jurisdiction over a plaintiff's state law claims, collateral estoppel may still bar those claims provided that the federal court decided issues identical to those raised by the plaintiff's state claims (***Clifford v County of Rockland***, 140 AD3d 1108, 1109-110, 35 NYS3d 211 [2d Dept 2016] *lv to appeal denied,* 28 NY3d 906).

While the federal court dismissed Plaintiff's federal and state gender discrimination claims under NYCHRL, those claims must be independently assessed under more liberal standards (***Williams v New York City Hous. Auth.***, 61 AD3d 62, 66 [1st Dept 2009], *lv denied*, 13 NY3d 702 [2009]. Notwithstanding this, however, "[a] federal court's factual findings under the federal analytical framework *may* preclude state courts from adjudicating city law claims." (***Simmons-Grant v Quinn Emanuel Urquhart & Sullivan, LLP***, 116AD3d 134, 140, 981 NYS2d 89 [1st Dept 2014]). Collateral estoppel applies to "strictly factual question[s] not involving application of law to facts of the expression of an ultimate legal conclusion." *Id.* Here, the District Court made a number of discrete factual determinations that collaterally estops Plaintiff from raising those claims in her NYCHRL claims (*see* ***Hudson v Merrill Lynch & Co., Inc.***, 138 AD3d 511, 515 [1st Dept 2016]). Regarding each one of Plaintiff's claims for exclusion from meetings, transfer of the ASM Board, the alleged circumvention of her denial of compensatory hours, the elimination of her ability to choose an assistant, her reassignment to Manager Hours of Service and Pay disparity were all addressed by the Federal Court in its decision. For each one of these allegations, the Federal Court found that there was no evidence of gender discrimination or pretext in *any* of the actions taken by LIRR. In fact, the Federal Court further found that Plaintiff failed to offer any evidence of how any of the alleged actions were either discriminatory or pretextual. Accordingly, Plaintiff is collaterally estopped from arguing otherwise now.

Similarly, Plaintiff's hostile work environment allegations under NYCHRL were already adjudicated by the federal court on the merits. The District Court considered each one of the retaliation claims that Plaintiff are also contained in the instant complaint. The Court concluded that there was no evidence of unlawful retaliation or pretext for each one of Plaintiff's claims, as set forth in both Order 1 and Order 2. The District Court found that the LIRR had legitimate reasons to transfer control or assignments, that the LIRR had "ample evidence" to reassign Plaintiff, and that Plaintiff failed to offer any evidence that the LIRR's stated reason for assigning her to a cubicle was pretextual. The Court

further found that Plaintiff failed to provide any evidence of a causal connection between the protected activity and the job rejections. Accordingly, the doctrine of collateral estoppel precludes Plaintiff's retaliation claim under NYCHRL where her similar claims under Title VII of the Civil Rights Act 1964 were dismissed by the U.S. Eastern District Court for the Eastern District of New York (*see* ***Simmons-Grant v Quinn Emanuel Urquhart v Sullivan, LLP.,*** *supra*). LIRR, therefore, has met its burden in establishing the claims herein were previously litigated in another court.

Since the LIRR has met its burden in establishing its right to invoke collateral estoppel in the instant matter, the burden then lies with Plaintiff to demonstrate the absence of a full and fair opportunity to be heard on the issues in the prior litigation. A review of the record and both decisions in the federal court, Order 1 and Order 2, reflect that Plaintiff has failed to demonstrate that she was not afforded a full and fair opportunity to be heard on the same issues that were raised in the District Court.

Accordingly, defendant's motion for summary judgment is **GRANTED**, and the complaint is hereby dismissed.

The foregoing constitutes the decision and Order of the Court.

Dated: May 20, 2020

HON. JOSEPH FARNETI
Acting Justice Supreme Court

__X__ FINAL DISPOSITION _____ NON-FINAL DISPOSITION