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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1251-15T3

DOMINIQUE DEMARQUET,

Plaintiff-Appellant,

v.

MAYOR FELIX ROQUE, TOWN OF
WEST NEW YORK, and WEST NEW
YORK BOARD OF EDUCATION,

Defendants-Respondents.

Argued telephonically October 3, 2017 –
Decided November 17, 2017

Before Judges Gilson and Mayer.

On appeal from Superior Court of New Jersey,
Law Division, Hudson County, Docket No.
L-4820-13.

Louis A. Zayas argued the cause for appellant
(Law Offices of Louis A. Zayas, attorneys; Mr.
Zayas and Alex Lee on the briefs).

Amy V. McClelland argued the cause for
respondent Felix Roque (Whipple Azzarello,
LLC, attorneys; John A. Azzarello and William
J. Muñoz, on the brief).

Sandra N. Varano argued the cause for
respondent West New York Board of Education
(Nirenberg & Varano, LLP, attorneys; Ms.
Varano, on the brief).

Robert E. Levy argued the cause for respondent Town of West New York (Scarinci & Hollenbeck, LLC, attorneys; Mr. Levy and Roshan D. Shah, on the brief).

PER CURIAM

Plaintiff Dominique Demarquet, a former employee of the West New York Board of Education (BOE), sued defendants Mayor Felix Roque, the Town of West New York, and the BOE alleging that she had been fired in retaliation for her political support of the former mayor and her refusal to support Mayor Roque. She appeals from orders granting summary judgment to defendants and dismissing with prejudice her complaint that asserted violations of the New Jersey Civil Rights Act (CRA), N.J.S.A. 10:6-1 to -2.

Plaintiff also appeals from an order denying her motion to strike Mayor Roque's answer after the Mayor invoked his Fifth Amendment privilege against self-incrimination during his deposition. Finally, plaintiff appeals from two orders addressing discovery issues, including an order granting Mayor Roque a protective order and an order denying her request to compel a deposition.

We reverse the orders granting summary judgment to defendants because of material factual disputes concerning the motive for plaintiff's discharge. We also remand for further consideration the orders denying plaintiff's motion to strike the Mayor's answer,

the order granting the Mayor a protective order, and the order denying plaintiff's motion to compel the deposition of Clara Herrera.

I.

We summarize the relevant facts as developed in the summary judgment record, and view those facts in the light most favorable to plaintiff, the non-moving party. Davis v. Brickman Landscaping, Ltd., 219 N.J. 395, 406 (2014) (citing Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 540 (1995)).

Plaintiff has been a resident of West New York for most of her life. In 2002, West New York hired her, first as a part-time employee, and later as a full-time employee in the Cultural Affairs Department. During that time, she was an active supporter of the then-mayor Silverio Vega.

In 2008, the BOE hired plaintiff as a secretary. Over the next three years, she was promoted and her salary increased from \$34,000 to just over \$57,000. Plaintiff also was attending college part-time. Accordingly, she requested and was granted an adjustment to her work schedule that allowed her to leave early two days a week and make up the time on the days that she did not have classes.

While plaintiff was working for the BOE, she remained politically active. In that regard, she continued to campaign for and support Mayor Vega.

In 2011, Roque challenged Vega for the position of Mayor of West New York. West New York has a commission form of government, with five commissioners who elect the mayor. N.J.S.A. 40:72-1 and N.J.S.A. 40:72-10. Accordingly, Roque ran with a slate of proposed commissioners. Plaintiff supported Mayor Vega and her activities included handing out pamphlets and attending fundraising events. In May 2011, Roque's slate of commissioners won the election and Roque, thereafter, was elected Mayor.

Plaintiff contends that after Roque became Mayor, he effectively took control of the BOE. At that time, West New York was a Type I school district, and its board members were appointed by the Mayor. N.J.S.A. 18A:12-6. Mayor Roque blocked two board members proposed by Mayor Vega. Mayor Roque was also successful in expanding the number of members of the BOE. Thus, Mayor Roque was able to appoint the majority of the BOE's members.

Plaintiff certified that Mayor Roque used his influence to pressure the BOE into hiring people who had supported him and terminating people who had not supported him. In that regard, plaintiff certified that she became aware that the Mayor had a

"hit list", which he used to target people for termination if they refused to support him politically.

Plaintiff testified that after Roque became Mayor, she was solicited several times by other BOE employees to support the new Mayor. She, however, refused to support him. She also explained that there was a recall petition, during which there were efforts to remove Mayor Roque. Plaintiff testified that while at work during that time, another BOE employee asked her to purchase a ticket to a fundraiser for Mayor Roque. She declined.

In early October 2011, the BOE notified plaintiff that it would be reviewing her employment. She discussed that notice with her supervisor, who told her that he was surprised she got such a notice because there were no issues with her performance. On October 12, 2011, the BOE terminated plaintiff, effective the next day. Plaintiff was not told why she was terminated.

In August 2012, approximately eleven months after plaintiff's termination, the Office of Fiscal Accountability and Compliance (OFAC) of the New Jersey Department of Education, initiated an investigation concerning the hiring practices of the West New York school district. After interviewing a number of people and reviewing various documents, the OFAC concluded that Mayor Roque had "interjected himself into the district's hiring process." The report found that "some district employees identified as loyal to

the former mayor were identified and selected for termination, demotion or reassignment to less desirable work locations." The OFAC investigation "also confirmed that the Mayor, his aides, board members, and district employees actively solicited contributions from district employees who often felt obligated to contribute to ensure continued employment."

Moreover, "[t]he OFAC review confirmed several instances of political retaliation against individuals deemed to be unsupportive of the Mayor." In that regard, the OFAC investigators were informed that a list of names submitted to the Superintendent for employment action was "commonly referred to as the Mayor's Hit List." The OFAC report also found that by appointing the majority of BOE members, Mayor Roque had "the opportunity to influence employment decisions presented to the [BOE] for approval." The OFAC then concluded that "the Mayor utilized his authority and influence to direct [BOE] actions concerning employment decisions in the [West New York school] district."

In October 2013, plaintiff sued defendants, alleging that they had violated the CRA by interfering with her constitutional rights to freedom of association and speech. Specifically, plaintiff contended that her employment with the BOE had been terminated in retaliation for her political activities and associations.

The parties engaged in discovery and two issues arose relevant to this appeal. First, plaintiff sought to compel the deposition of Mayor Roque. The Mayor moved for a protective order to prevent the distribution of his deposition to third parties. The court initially denied that motion in a July 24, 2015 order. However, after the Mayor moved for a stay so that he could seek interlocutory appeal, the trial court sua sponte reconsidered. In an order dated August 21, 2015, the court granted the protective order. Plaintiff moved for reconsideration, but the trial court denied that application in an order entered on October 9, 2015.

At his deposition, Mayor Roque asserted his Fifth Amendment privilege against self-incrimination in response to certain questions relating to the OFAC report. The Mayor, however, answered other questions. He denied any knowledge of plaintiff or her political activities. The Mayor also denied playing a role in BOE personnel decisions. He gave that answer, despite the fact that the OFAC report concluded that he played a role in BOE personnel decisions.

The second discovery issue concerned the deposition of Clara Herrera. On June 12, 2015, while discovery was open, plaintiff sent a notice to take the deposition of Herrera on a date before discovery closed. Herrera was the Assistant Superintendent of the BOE, and allegedly the person who helped coordinate the Mayor's

hit list. Herrera had also been an active supporter of Roque when he ran for election in 2011. Herrera's deposition was adjourned and did not take place before the close of discovery because counsel for West New York was on vacation.

Thereafter, on June 26, 2015, plaintiff filed a motion to compel Herrera's deposition. Discovery closed on July 2, 2015. The trial court denied plaintiff's motion in an order entered on July 10, 2015. In that order, the court noted that the discovery end date had been extended to July 2, 2015, so that all depositions could be taken before that date. The order also noted that plaintiff had not filed a motion to extend that July 2, 2015 end date.

In August 2015, following the close of discovery, defendants moved for summary judgment. In support of those motions, the BOE submitted the certification of the former Superintendent, John Fauta. Fauta certified that he had recommended that plaintiff not be re-hired in October 2011 because her salary was significantly higher than the average salary of her peers, the school district was facing a budget crisis, and plaintiff had requested a modification of her work schedule to accommodate her college schedule. Fauta also certified that after plaintiff was fired, she was not replaced.

In opposing summary judgment, plaintiff certified that she was never given a reason for her termination when she was fired. Plaintiff also certified that she believed that she was on Mayor Roque's hit list, and that she was fired because she did not support Mayor Roque and openly campaigned for former Mayor Vega. Plaintiff also certified that her position as secretary at the BOE did not involve any policy-making decisions and that political affiliation was not a requirement for her position.

In addition, plaintiff submitted certifications from Scott Cannano and Michelle Lopez. Cannano was a former principal in the West New York school district. He certified that, "similar" to plaintiff, he was demoted and terminated because he did not buy tickets to Mayor Roque's political fundraisers. Cannano also asserted that in the fall of 2011, he was involved in budget meetings with Superintendent Fauta, and did not learn of any budgetary concerns. Thus, he testified: "During my time working in the school district as an educator, I never witnessed anyone either an administrator, or secretaries, being fired for budgetary reasons." Cannano also challenged Fauta's claim that plaintiff was not replaced. In that regard, he certified: "Contrary to defendants' assertions, the Board of Education Business Office has not remained only five individuals after Dominique Demarquet's termination, but actually increased as it now employs eight

administrative employees." In his certification, Cannano also acknowledged that, like plaintiff, he had a pending lawsuit against defendants.

Lopez is a third grade teacher in the West New York school district. She certified that she was told about a hit list of school employees who were targeted for retaliation because they did not support Mayor Roque. She also certified that she campaigned for former Mayor Vega, refused to purchase a ticket for a fundraiser for Mayor Roque, and was told by two BOE employees that she was on the hit list. Thereafter, the BOE did not reappoint Lopez as a supervisor despite Superintendent Fauta's recommendation that she be reappointed.

In conjunction with her opposition to defendants' summary judgment motions, on September 11, 2015, plaintiff cross-moved to strike Mayor Roque's answer. Plaintiff argued that the Mayor's answer should be stricken because he asserted his Fifth Amendment privilege against self-incrimination in response to certain questions at his deposition. In opposing the summary judgment motions, plaintiff also argued that an adverse inference should be drawn against Mayor Roque because of his assertion of his Fifth Amendment privilege.

After hearing oral argument, the trial court granted summary judgment in favor of defendants. The court set forth the reasons

for its decision on the record on September 18, 2015, and entered two orders that day. Citing our decision in Bello v. Lyndhurst Board of Education, 344 N.J. Super. 187 (App. Div. 2001), the trial court identified the three prongs necessary for plaintiff to show that her termination violated her constitutional rights: (1) she was employed by a public entity; (2) in a position where political affiliation was not a condition of employment; and (3) she was terminated for her political affiliations or activities. Id. at 194. The court then found that there was no dispute that plaintiff had satisfied the first two prongs, and that the summary judgment motion hinged on the third prong.

The court reasoned that only three pieces of evidence supported plaintiff's claim of political retaliation: the certification of Cannano, the certification of Lopez, and the OFAC report. The trial court held that the certifications of Lopez and Cannano addressed only their own circumstances and did not discuss plaintiff's termination. The court also reasoned that the certifications made "bare assertions" that were "untested" because neither Lopez nor Cannano had been deposed. Finally, the court stated that the certifications were "rife with hearsay and unsubstantiated statements and arguments and are, therefore, evidentially infirm."

Turning to the OFAC report, the trial court held that the report was inadmissible hearsay. In that regard, the court reasoned that neither the references to statements made by BOE employees or public officials, nor the report's conclusions were admissible. In support of its holding, the trial court cited our decisions in Villanueva v. Zimmer, 431 N.J. Super. 301 (App. Div. 2013), and Meunch v. Township of Haddon, 255 N.J. Super. 288 (App. Div. 1992).

The trial court also reasoned that it would be "speculative" to try to determine what Mayor Roque would or would not have said in response to questions when he asserted his Fifth Amendment privilege. Thus, the trial court effectively refused to draw an adverse inference from the Mayor's refusal to answer questions at his deposition.

In its September 18, 2015 decision and orders, the trial court did not address plaintiff's cross-motion to strike Mayor Roque's answer. Instead, a different judge entered an order on October 9, 2015, denying the motion as "moot." That order was apparently entered without oral argument and was not supported by any written or oral opinion, apart from a handwritten note on the order, which stated: "Denied as moot – summary judgment granted on 9-18-15."

II.

Plaintiff appeals from: (1) the September 18, 2015 orders granting summary judgment to defendants; (2) the October 9, 2015 order denying her motion to strike Mayor Roque's answer; (3) the August 21, 2015 order granting a protective order over the deposition of Mayor Roque and the October 9, 2015 order denying reconsideration; and (4) the July 10, 2015 order denying her motion to compel the deposition of Clara Herrera.¹

We will address these orders in turn, and for the reasons that follow, we reverse the summary judgment orders and remand the other orders for further consideration.

A. The Summary Judgment Orders

Our review of orders granting summary judgment is de novo, and we apply the same standard employed by the trial court. Davis, supra, 219 N.J. at 405. Accordingly, we determine whether the moving party has demonstrated that there are no genuine disputes

¹ In her amended notice of appeal, plaintiff also identified other orders from which she was appealing. Those orders included an order dated July 10, 2015, which denied her motion to compel the deposition of Robert Cicchino; an order dated July 24, 2015, which quashed her late amended interrogatory answers; and a September 18, 2015 order denying reconsideration of the order quashing the late interrogatory answers. Plaintiff, however, failed to address these other orders in her brief on appeal. Thus, we deem her arguments concerning those orders to be abandoned. Zavodnick v. Leven, 340 N.J. Super. 94, 103 (App. Div. 2001) (citing Carter v. Carter, 318 N.J. Super. 34, 42 n.8 (App. Div. 1999)).

as to any material facts and, if not, whether the moving party is entitled to judgment as a matter of law. Id. at 405-06; Brill, supra, 142 N.J. at 540; R. 4:46.

In her complaint, plaintiff asserted a violation of the CRA. The CRA grants a private right of action against persons who act "under color of law" to interfere with substantive "rights, privileges or immunities" secured by the federal and New Jersey constitutions and federal and New Jersey laws. N.J.S.A. 10:6-2(c).

The United States Supreme Court has held that it is unconstitutional for public agencies to discharge employees who are neither policy-makers nor advisors based on their political affiliations, reasoning that an employee's exercise of his or her First Amendment rights outweighs the government's interest in maintaining a system of political patronage. See Elrod v. Burns, 427 U.S. 347, 372-73, 96 S. Ct. 2673, 2689-90, 49 L. Ed. 2d 547, 565 (1976). See also Brianti v. Finkel, 445 U.S. 507, 514-15, 100 S. Ct. 1287, 1292-93, 63 L. Ed. 2d 574, 581-82 (1980); Battaqlia v. Union County Welfare Board, 88 N.J. 48, 60 (1981) (noting that "the holding of Elrod is that a non-policy-making, non-confidential public employee could not lawfully be discharged solely because of his [or her] political beliefs").

To establish a prima facie case of political discrimination, an employee must show "that [she] works for a public agency in a position that does not require a political affiliation, that [she] was engaged in constitutionally protected conduct, and that the conduct was a substantial or motivating factor in the government's employment decision." Bello, supra, 344 N.J. Super. at 193 (App. Div. 2001) (quoting Stevens v. Kerrigan, 122 F.3d 171, 176 (3d Cir. 1997)). After the employee makes a prima facie case, "the employer may avoid a finding of liability by proving by a preponderance of the evidence that the same employment action would have been taken even in the absence of the protected activity." Ibid. This burden-shifting mechanism is similar to the mechanism used in other employment discrimination cases. Ibid; see also D'Aurizio v. Palisades Park, 963 F. Supp. 387, 392-93 (D.N.J. 1997).

Here, defendants do not dispute that plaintiff worked for a public agency. Neither do they dispute that her position did not require a political affiliation. Moreover, the evidence establishes that plaintiff engaged in constitutionally protected conduct by campaigning for and supporting the former Mayor Vega and by refusing to give her political support to Mayor Roque. Accordingly, the critical issue here is whether plaintiff's political affiliations and activities were a "substantial or

motivating factor" in her termination. We hold that that question was a disputed issue of material fact, which was not appropriate for a determination on summary judgment.

Both defendants and the trial court inappropriately narrowed their focus to the certifications from Cannano and Lopez and the OFAC report. This narrow focus ignored plaintiff's own testimony and certification. Plaintiff contended that she was informed of a hit list and learned that she was on that list. Although defendants dispute that plaintiff had any evidence to support that claim, sufficient evidence created a question of fact to be considered by a jury.

Plaintiff's claims about the hit list and political retaliation were corroborated by other evidence. Specifically, the certifications of Cannano and Lopez support plaintiff's testimony. While neither Cannano nor Lopez were aware of specifics concerning plaintiff, their certifications support plaintiff's contention that there was a culture of political retaliation under Mayor Roque's administration. For example, Lopez certified that there was a hit list, and people who were on the hit list were being retaliated against for political reasons. That testimony supports plaintiff's independent testimony that she also was aware of the hit list and that she was on the list. Putting those

statements together creates an issue of material fact concerning the motive for plaintiff's firing.

Defendants also argue that no evidence demonstrates that the Mayor was aware of plaintiff or her political activities. A problem with that argument is that the Mayor selectively asserted his Fifth Amendment privilege against self-incrimination. When a party in a civil action asserts his or her Fifth Amendment privilege against self-incrimination, the court can instruct the jury that they may draw an adverse inference. See, e.g., Mahne v. Mahne, 66 N.J. 53, 60-62 (1974) (recognizing that an adverse inference may be drawn from a party's invocation of the Fifth Amendment in civil matters), certif. denied, 75 N.J. 22 (1977); Duratron Corp. v. Republic Stuyvesant Corp., 95 N.J. Super. 527, 533 (App. Div.) (noting that the adverse inference drawn from a civil party's invocation of the Fifth Amendment is "a logical, traditional, and valuable tool in the process of fair adjudication"), certif. denied, 50 N.J. 404 (1967).

In the record developed here, there were grounds for drawing adverse inferences against Mayor Roque. For example, Mayor Roque denied any involvement in personnel decisions at the BOE. The OFAC report reached the opposite conclusion. Thus, his refusal to respond to questions about the OFAC report created an adverse

inference that Mayor Roque was involved in such BOE decisions. On summary judgment, plaintiff was entitled to such an inference.

Defendants vigorously argue that the OFAC report was not admissible. The trial court agreed with that position. We hold, however, that that ruling was premature on a summary judgment record. The report, in and of itself, may not be admissible as a public record, but plaintiff had the right to call witnesses who are referenced in the report and try to develop the positions detailed in the report. Moreover, and independently, when Mayor Roque asserted his Fifth Amendment privilege and refused to answer questions about the report, those answers were admissible on a summary judgment record and were subject to an adverse inference. For example, his denial of involvement in BOE personnel decisions would be subject to an adverse inference since he refused to answer questions about the report, which reached the opposite conclusion.

Thus, on the summary judgment record, plaintiff established a prima facie showing of political retaliation. The BOE then responded with the certification of Fauta, who contended that plaintiff was fired for budgetary reasons and because she requested an adjustment in her work schedule. Plaintiff, however, submitted sufficient evidence to create material factual disputes concerning the reasons for her firing.

Both in her own testimony and in the certification of Cannano, plaintiff disputes that budgetary reasons existed for her termination. Plaintiff also testified that her request for an accommodation in her work schedule had been approved by her immediate supervisor and that other people received similar accommodations. Cannano certified that despite meeting with Fauta about budgetary matters during the time preceding plaintiff's termination, he was not aware of any budget crisis. He went on to certify that while he was employed by the BOE, he was not aware of any secretary in the business office being fired for budgetary reasons. He also disputed Fauta's claim that plaintiff was not replaced. Thus, the conflicting certifications among Fauta, plaintiff, and Cannano create disputed issues of material fact concerning whether the BOE's recently stated reasons for plaintiff's termination are pretextual.

In summary, when the record is reviewed under the summary judgment standard, and all inferences are drawn in favor of plaintiff, disputed issues of material fact exist concerning whether plaintiff's political activities were a substantial or motivating factor in the BOE's decision to fire her.

B. The Order Denying Plaintiff's Motion to Strike Mayor Roque's Answer

The October 9, 2015 order denying plaintiff's motion to strike Mayor Roque's answer was based on the motion being "moot" because the court granted summary judgment to defendants. Given that we have now reversed the orders granting summary judgment to defendants, plaintiff's motion is no longer moot. Accordingly, we remand that issue to the trial court for further consideration.

When a civil defendant fails to submit to pretrial discovery, courts have a range of sanctions that can be imposed. Mahne, supra, 66 N.J. at 61. While a civil defendant may invoke his or her Fifth Amendment privilege to avoid self-incrimination, the court is permitted to draw adverse inferences from such invocation. Id. at 60 (citing Duratron, supra, 95 N.J. Super. at 533). Accordingly, on remand, the court should consider whether to strike Mayor Roque's answer or impose a lesser sanction such as allowing adverse inferences to be drawn against the Mayor.

Defendants note that "adverse inferences may only be drawn if there is other evidence supporting an adverse finding; it must not alone constitute the evidence of guilt." State Dep't. of Law & Pub. Safety, Div. of Gaming Enf't v. Merlino, 216 N.J. Super. 579, 587-88 (App. Div. 1987), aff'd, 109 N.J. 134 (1988). Here,

plaintiff has already developed evidence, independent of an adverse inference, to support her claim of political retaliation.

C. The Order Granting a Protective Order over the Deposition of Mayor Roque

Before his deposition, Mayor Roque moved for a protective order. Initially, the court denied that motion. When the Mayor sought a stay so that he could file leave to appeal, the trial court sua sponte reconsidered and granted the protective order. In doing so, the court reasoned that public dissemination of the Mayor's deposition would cause embarrassment, and that plaintiff's intent was to try the case in the media or taint the jury pool in her favor.

Under Rule 4:10-3, a court may enter a protective order, upon a showing of good cause and as justice requires, to prevent "annoyance, embarrassment, oppression, or undue burden or expense." However, "[b]road allegations of harm, unsubstantiated by specific examples or articulated reasoning," do not establish good cause. Cipollone v. Liggett Grp., Inc., 785 F.2d 1108, 1121 (3d Cir. 1986). Assuring freedom of communication on matters relating to government is essential in a democracy. Therefore, protective orders that have a chilling effect upon that purpose should be used sparingly. Lederman v. Prudential Life Ins. Co.

of Am., Inc., 385 N.J. Super. 307, 323 (App. Div.), certif. denied, 188 N.J. 353 (2006).

Here, we hold that the trial court failed to articulate sufficient reasons to justify its broad protective order. Accordingly, we remand this issue to the trial court for further consideration. We direct the court to provide greater explanation of Roque's need for a protective order in light of the heightened public interest in matters involving government officials. On remand, the court should also consider any change in circumstances, including whether there is a pending criminal action or investigation against the Mayor concerning his involvement in BOE employment decisions.

D. The Order Denying Plaintiff's Motion to Compel the Deposition of Clara Herrera

Trial courts have broad discretion in determining the scope and timing of discovery. Mernick v. McCutchen, 442 N.J. Super. 196, 199-200 (App. Div. 2015). Here, however, it is not clear that the court considered all of the timing issues relevant to the request to take the deposition of Clara Herrera. It is indisputable that Herrera is a material witness, whose identity was known to the defendants during discovery. While discovery was open, plaintiff served a notice calling for Herrera's deposition to take place before discovery closed. Due to the vacation of the

BOE's attorney, however, the deposition did not take place before the close of discovery.

Plaintiff then moved to compel Herrera's deposition. The trial court did not hold oral argument on that motion. The only explanation for its decision was two sentences typed at the bottom of the July 10, 2015 order. Those sentences read:

This application is denied. The [discovery end date] that was extended by this court's April 24, 2015 order to require all depositions of any party and any fact witnesses to July 2, 2015, has expired and no motion to extend the [discovery end date] has been filed.

We cannot ascertain whether the court considered that plaintiff requested the deposition while discovery was still open and that the deposition was postponed beyond the discovery end date because defense counsel was on vacation. Therefore, we remand this issue so that the court can consider those facts. If the court denies plaintiff's request to depose Herrera, it must explain its reasons for that denial in sufficient detail that would allow appropriate appellate review. See R. 1:7-4; see also Ronan v. Adely, 182 N.J. 103, 110-11 (2004) (emphasizing the importance of trial courts making clear findings of fact in determining issues).

In summary, we reverse the September 18, 2015 orders granting summary judgment to defendants. We remand for further consideration the October 9, 2015 orders denying plaintiff's

motion to strike Mayor Roque's answer, the September 21, 2015 order granting a protective order over the deposition of Mayor Roque, and the July 10, 2015 order denying plaintiff's motion to compel the deposition of Clara Herrera.

Reversed in part, and remanded in part. We do not retain jurisdiction.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION