SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2398-14T4

PEGGY L. STEINHAUSER, RLA,

Plaintiff-Appellant,

v.

KZA ENGINEERING, P.A.; RICHARD V. KENDERIAN, PE, PP; PRINCIPAL/ PRESIDENT, STEPHEN P. ATKINS, PE; PARTNER/VICE PRESIDENT OF ENGINEERING; ERROL MELNICK, PLS PARTNER/DIRECTOR OF SURVEYING JOHN R. MARTINEZ, PE, PP, PARTNER/PROJECT MANAGER; RUSSELL T. McFALL II, PE PARTNER/DIRECTOR; ROBERT YURO, PARTNER; MARK WHITAKER, PARTNER and ERROL MELNICK, PARTNER,

Defendants-Respondents.

Argued November 16, 2016 – Decided May 18, 2018

Before Judges Fuentes, Simonelli and Carroll.

On appeal from Superior Court of New Jersey, Law Division, Monmouth County, Docket No. L-4214-11.

Michael S. Morris argued the cause for appellant (Michael S. Morris and Escandon, Fernicola, Anderson & Covelli, attorneys; Michael S. Morris and Robert M. Anderson, on the briefs).

Joseph C. DeBlasio argued the cause for respondents (Jackson Lewis PC, attorneys; Joseph C. DeBlasio, of counsel and on the brief; Sabrina Kania, on the brief).

The opinion of the court was delivered by

Fuentes, P.J.A.D.

Plaintiff Peggy L. Steinhauser filed a civil action against her former employer KZA Engineering, P.A. (KZA), alleging she was fired in violation of the Conscientious Employee Protection Act (CEPA), N.J.S.A. 34:19-1 to -14, and the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49. Plaintiff also named as defendants KZA's President Richard V. Kenderian, Vice President Stephen P. Atkins, partner and Director of Surveying Errol Melnick, Partner and Project Manager John R. Martinez, Partner and Director Russell T. McFall II, and Partners Robert Yuro and Mark Whitaker.

Plaintiff alleges that she was furloughed and eventually terminated from her position as a full-time project manager for reporting that a plan KZA submitted to the Department of Environmental Protection (DEP) misstated the correct wetlands buffer. She also claims that defendants terminated her employment based on her sex and marital status. After joinder of issue and completion of discovery, defendants moved for summary judgment

arguing plaintiff did not establish a prima facie case of invidious discharge under either statute.

After considering the arguments of counsel, the Law Division granted defendants' motion and dismissed plaintiff's complaint with prejudice. In this appeal, plaintiff argues the motion judge erred when she found that marital status was not a protected class under the LAD. With respect to her claims under CEPA, plaintiff argues the motion judge erred when she found plaintiff did not rebut as pretextual the evidence defendants presented that established a valid, nondiscriminatory basis for terminating her employment.

A trial court shall grant a motion for summary judgment when "the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law." Templo Fuente De Vida Corp. v. Nat'l Union Fire Ins. Co., 224 N.J. 189, 199 (2016) (quoting R. 4:46-2(c)). Our review from the denial or grant of a motion for summary judgment is de novo. Globe Motor Co. v. Igdalev, 225 N.J. 469, 479 (2016).

After reviewing the record developed before the trial court, we affirm. Although we agree with plaintiff that marital status is protected under the LAD, we are satisfied the motion judge's

erroneous conclusion in this respect is legally inconsequential. Viewing the evidence in the light most favorable to plaintiff, defendants established that the decision to terminate plaintiff's employment was based on business-centric, nondiscriminatory reasons. Plaintiff did not present any competent evidence to rebut this conclusion.

I

A

Plaintiff has been a registered Landscape Architect (RLA) since 1984. In December 1997, KZA hired her as a project manager on a full-time basis. She worked under the supervision of the company's President, Richard Kenderian. Her position was previously occupied by a male employee. Sometime between June or July 1999, plaintiff left her position with KZA for personal reasons. She returned to KZA on July 9, 2001, as a part-time project manager with a starting annual salary of $50,000 and a full benefits package.

The KZA job posting for the position of project manager provided the following description of the duties and responsibilities:

> The purpose of this position is to handle all needs of clients both administratively and technically. The person [in] this position is responsible for client satisfaction and the assurance of continuing work with any

particular client he or she is assigned to, therefore, this position requires exceptional communication and marketing skills as well as good business skills.

Other important skills required: Must possess excellent people interrelationship skills, communicate well with superiors, peers, charges [and] clients (up, down, & outside the chain of command). Must show willingness to learn new skills and techniques [and] teach coworkers for [the] good of [the] entire company. Must be Team [and] Goals and Objectives oriented. Follow up routinely to assure work delivered with quality, meeting deadlines through proper record keeping and punctuality. Required to maintain a professional appearance and decorum.

A project manager was also expected to:

Create project budgets and proposals, and complete project on or before deadlines, as well as, on or under budget.

Market successfully and ambitiously follow up market leads, leading to new projects.

Set up and schedule projects through the production process efficiently and cost effectively, giving clear direction to charges.

Communicate effectively with clients, giving them immediate and continual feedback on their projects. (Clients should not have to call for status)[.]

Immediately and appropriately inform clients when project services [that] must go beyond contract scope are required.

Assure quality control of plan development.

> Continuously review company design and procedural standards and provide feedback to management on a continual basis.
>
> Uphold all company policies and standards.
>
> Manage financial aspects of the project, such as invoicing and collections.

Based on the record presented by the parties, the motion judge also found the duties of a project manager "included, among other things, the general practice of civil engineering, site layout and design, landscape architectural design, hydrology studies, preparation of environmental impact statements, management of projects, and assuring quality control of plan development." In addition, plaintiff testified at her deposition that when she prepared site plans, her job duties required her to identify and ensure compliance with municipal, county, and State requirements, where appropriate.

In 2007, KZA instituted an "across-the-board" freeze on salary increases in response to the decline in business caused by the economic recession. In her deposition testimony, plaintiff acknowledged that there was "less work coming in." Plaintiff also testified that when she began working at KZA in 2001, there were approximately forty employees. When she returned on a part-time basis, she saw the number of employees rise to as many as eighty. However, by the time she separated from the company in 2008, there

were less than forty employees remaining. All of the employees remaining after 2008 were required to take a ten percent reduction in salary. However, plaintiff's salary was only reduced by five percent.

In a memorandum to all employees dated February 21, 2010, Kenderian announced another round of layoffs. As part of plaintiff's deposition, defendants' counsel read into the record the relevant parts of the memorandum:[1]

> We are finding ourselves in the same position as many other businesses in that cash appears to have stopped flowing once again.
>
> . . . .
>
> As we have signed several new projects, however, it is fewer than anticipated and the work in-house will not support the current staff.

These staff reductions affected both female and male employees. KZA experienced issues with cash flow and the incoming work was historically low. The company decided to reduce the salary of administrative by another ten percent.

B

Roger Passarella was a client of KZA. He owned numerous commercial and residential properties throughout the State. A major part of plaintiff's claims against defendants arise from the

[1] The complete memorandum is part of the appellate record.

so-called Susan Passarella Project (Passarella Project), which originally involved the construction of a commercial housing project in Wall Township. As Kenderian explained in his deposition, Roger Passarella, on behalf of his daughter Susan, "wanted to get an approval for a residential single-family home on a commercial piece of his property that he owned." Although Passarella at one point considered constructing affordable housing on this site, he eventually abandoned this idea.

KZA assigns a team to manage every project. Teams consist of a junior engineer, a computer assisted drawing operator, a permit coordinator, and a project manager. The team assigned to the Passarella Project consisted of plaintiff as project manager, Lois Putas as permit coordinator, Jason Wienbarg as project engineer, Melnick as surveyor, Atkins as engineer-of-record, and Brian Leff as professional planner. Plaintiff was responsible for preparing a proposal-letter for Passarella outlining the phases of the work and the costs associated with each phase. Plaintiff's proposal-letter, dated December 16, 2009, described the phases involved in the project; it included preliminary designs, wetlands investigations, use variance plans, percolation testing, and locations of any buffers.

When wetlands are detected on a property, an application must be made to the DEP to determine buffer requirements. Here, the proposal specified:

> It is our understanding that the property in question lies upstream of a Category 1 stream and is therefore subject to buffer requirements. It is also our understanding that since the previous use on this land was a single family residence, that any proposed use can be of the same intensity and that a 150 ft. buffer will be required. This assumption is based on the level of disturbance of the land and NJDEP regulations.

The 150-foot buffer referred to in the proposal applied to the Category 1 stream, not the separate wetlands buffer. The wetlands buffer was a separate issue that was eventually outsourced to an environmental consultant.

According to Kenderian, the project needed "various bulk variances, setbacks variances, variances to environmental buffers, waivers to environmental buffers and a use variance because the particular use was not permitted in the zone . . . ." To complete the preliminary wetlands investigation, KZA contracted with environmental consultant Pete Ritchings. Plaintiff served as KZA's primary liaison to Ritchings throughout the process. Ritchings visited the site and delineated the wetland areas. KZA submitted the Passarella Project plan on March 4, 2010. It provided a fifty-foot buffer to the wetlands. On October 7, 2009,

the DEP sent a "Letter of Interpretation" (LOI) approval to KZA, which required a 150-foot buffer to the wetlands.

The local Zoning Board of Adjustment (Board) contracted planners Taylor Design Group and T&M Associates to review the Passarella Project's use variance application prepared by KZA. Both Taylor Design Group and T&M Associates issued letters on April 26, 2010 and May 12, 2010, respectively, recommending that certain matters should be addressed as a condition to the Board's approval. The hearing for the Board to consider the use variance application was originally scheduled on May 19, 2010. On that day, KZA planner Brian Leff discovered that the application did not include the LOI from the DEP, which stated the need for the 150-foot buffer. This oversight rendered KZA's plans erroneous because the plans did not reflect the 150-foot environmental buffer on the lot.

Defendants' counsel questioned plaintiff directly on this issue:

> Q. Did you say that when Pete Ritchings got this letter he would have sent it to everyone at KZA working on this project?
>
> A. I believe he did. I think I researched and he sent it to us after he received it in 2009.
>
> Q. So, would it be customary for you to get a copy of this?
>
> A. Oh, absolutely.

. . . .

Q. If it was [an] LOI like this one pertaining to wetlands, what would you do with this information?

A. Personally, I would make sure that Survey had a copy of it so that Survey would update the maps to have the buffers indicated as per this file and have the file referenced on the survey.

Q. Okay. And then as part of your customary practice as a project manager, would you do any kind of follow-up to see if Survey did what they were supposed to do with respect to the plan and updated the buffer?

A. Absolutely, on an active project I would have done that.

And on this project, I probably saw it come in and made sure everybody had a copy and put it in the file and did nothing else on this project.

. . . .

Q. So for whatever reason, it was an oversight by KZA, the team working on the project, that it didn't get detected earlier?

A. Correct.

The record shows plaintiff sent an email to the attorney who was presenting the Passarella Project's application before the Board, with a copy to KZA's Vice President Stephen Atkins, stating the following:

We have an issue here with the wetland buffer shown on our drawings. We show 50 ft. where

> the LOI requires 150 ft. on this lot. We need to discuss the impact on the application and whether we will move forward with tonight's hearing. Are you available for a conference call at around 9:40? Thanks.

According to plaintiff, this email triggered a conference call with the attorney, the KZA project team, and Kenderian, to discuss whether to go forward with the application that day. Plaintiff testified that the team's professional planner, Brian Leff, believed he was not in a position to testify under these circumstances. The group ultimately agreed to postpone the hearing in order to rectify the LOI discrepancy. Plaintiff and Ritchings determined that the only way to continue with the project would be to seek a hardship waiver to reduce the buffer. On May 24, 2010, plaintiff sent Passarella an email, with a copy to Atkins, informing him about the LOI oversight and the plan to correct it.

Plaintiff testified that in June 2010, Atkins asked her if she wanted to go on furlough. Plaintiff said that Atkins told her that the company "didn't need my services as a project manager, [because] there wasn't sufficient work for me . . . ." She would remain furloughed "until there was additional work." During furlough, plaintiff was eligible for unemployment benefits and KZA continued to provide her with full medical insurance coverage. In the letter plaintiff received confirming her furlough, the company stated: "As you know, the general economy and, more particularly,

the land development business have not significantly improved." When asked whether she agreed, plaintiff admitted that "[the company] was doing poorly when [she was] furlough[ed]."

Plaintiff's annual salary at the time she was furloughed was $75,000. She received unemployment compensation benefits thereafter without objection from KZA. Sometime later that summer, Atkins contacted plaintiff and offered her the option of returning from furlough at a lower annual salary. She declined. On November 12, 2010, KZA formally terminated plaintiff's employment due to lack of work to support her position. The termination letter stated, in relevant part:

> Dear Peggy:
>
> In confirmation of our telephone conversation earlier this week, it is with great regret that I have to inform you that we can no longer maintain your employee status. The official termination date of your employment will be Friday[,] November 19, 2010. You have been a critical member of . . . KZA Engineering and "Team 2" and we will miss you.
>
> I placed you on "Furlough" status on June 6, 2010 with the hope that there would be sufficient work in the near future to return you to the position you held up until that point. As you know[,] the general economy and, more particularly, the land development business have not significantly improved and we do not see a quick return to work levels which existed prior to the current recession.
>
> As I indicated previously[,] the main reason why you were selected to be place on

> "Furlough" as opposed to other employees was the lack of appropriate work for someone of your skills and the fact we could not utilize you for work at a lower level due to project budget constraints. These reasons[,] along with our inability to afford to continue to absorb the cost of employee benefits[,] bring us to the point where we must officially lay you off.

Plaintiff alleges that she "was replaced by a younger male employee of KZA . . . ." This person "assumed [her] job responsibilities." Plaintiff's coworker Lois Putas certified that "[plaintiff] was stunned when she learned that she had been terminated . . . ." Putas claims that when she asked Atkins the reason for plaintiff's termination, he did not give her "a specific reason." Putas also alleges that Atkins told her that plaintiff "did not need the money anyway, as [plaintiff and her husband] were buying all of these houses." In March 2012, plaintiff was hired by Omland Engineering.

C

On November 3, 2010, the Board met to consider the Passarella Project application, and granted the use variance. During the hearing, KZA did not inform the Board that the DEP had issued the LOI requiring a 150-foot wetland buffer or that it had filed for a hardship waiver. However, KZA's representatives made clear that "even if this board approved the application, it would still be subject to NJDEP approvals, including transitionary buffers and

others." KZA also noted that "about 3/4 [of the property] consist[ed] of wetlands." The record shows the Board considered whether it should approve the application without "a set of real plans" or postpone approval until the necessary DEP approvals were actually obtained. After formally noting the potential financial hardship a postponement would cause Passarella, the Board voted to grant the use variance application.

During her furlough from KZA, plaintiff remained "curious as to how" KZA secured the approval of a use variance from the Board. She thus "accessed all [her] project files to see if there had been any application for the [hardship] waiver." When she did not locate a hardship waiver, she read the minutes of the Board hearing and found that KZA did not mention the 150-foot buffer. Plaintiff admitted in her deposition testimony that she did not report what she believed to be an alleged "fraud" to a partner of KZA. Plaintiff only contacted Putas and project engineer Jason Wienbarg to ask them whether a hardship waiver was ever obtained. Neither of them were able to give her any definitive information on the matter. They merely told her that the hardship waiver was "being done by others."

On September 2, 2011, plaintiff filed this civil action against defendants. Plaintiff argues she was furloughed and later terminated "in order to secure the [u]se [v]ariance by the [Board]

for the Susan Passarella-Wall project." She claims that she "was the only person required by the firm to take a salary reduction with no time of work reduction." According to plaintiff, the partners in KZA viewed her as financially capable of withstanding the loss in income because of her husband's financially secured position. Plaintiff argues that she was discriminated against based on her marital status combined with the stereotype, sexist notion that married women are financially dependent on their spouses. Stated differently, plaintiff argues that her marital status and gender were used as reasons for her termination, in violation of the LAD.

II

At the conclusion of the discovery period, defendants moved for summary judgment. Defendants argued that the uncontested material facts showed plaintiff did not experience any discrimination based on her gender. In support of this claim, defendants cited the following deposition testimony from plaintiff:

> Q. During your employment with KZA, did you ever make any complaints to anyone at the firm that you felt there was conduct towards you that you felt was improper?
>
> A. No.

> Q. During your employment with KZA[,] did you have any complaints that you made internally about the way you were treated?
>
> A. No.
>
> Q. During your employment with KZA[,] did you ever tell anyone at the firm that you felt you were discriminated against on the basis of your sex?
>
> A. No.
>
> Q. And we talked about the first round of layoffs at the firm that occurred at KZA in 2008. You were not selected for layoffs in the first round in 2008, correct?
>
> A. Correct.

Plaintiff also admitted that at some point in 2008, all full time employees of KZA were required to accept a ten percent reduction in their salaries. However, plaintiff received only a five percent reduction in her salary. The only evidence plaintiff presented to rebut defendants' argument was a certification from Putas, who was employed at KZA as a "project administrator." Putas averred that KZA Vice President Atkins did not give her a specific reason for plaintiff's termination. Putas also claimed that Atkins stated that plaintiff "did not need the money anyway, as [plaintiff and her husband] were buying all of these houses."

The motion judge stated her oral decision in an "on the record" conference call with counsel conducted on December 10, 2014. The record of the conference call reflects that plaintiff's

counsel stipulated to dismiss all claims against "the individual defendants, except for Kenderian and Atkins." The motion judge provided the following summary of plaintiff's claims against defendants:

> Plaintiff alleges that she was discharged in violation of . . . CEPA, due to her reporting of regulatory issues related to a project, which I'll refer to as the Pasarella Project.
>
> Plaintiff also alleges that she was subject to unlawful sex discrimination . . . under the [LAD].

With respect to her CEPA claim, the motion judge found that plaintiff did not establish a nexus between her alleged whistleblowing activity, as defined in N.J.S.A. 34:19-3(c), and her termination. The judge also applied the burden-shifting analysis established by the United States Supreme Court in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), and found plaintiff failed to present competent evidence that KZA's reasons for terminating her employment "were merely pretextual."

The judge also provided the following explanation in support of her decision to reject plaintiff's LAD claims based on gender:

> In support of that allegation, or that [] assertion, defendant points to the Put[a]s certification indicating that [] Atkins stated that she was terminated "because . . . she did not need the money anyway." But, again, that does not go to gender discrimination; it's just a recognition of the financial considerations at issue. And I don't even

> want to characterize it that way. It just simply does not reflect gender discrimination.
>
> So, accordingly, the [c]ourt finds that applying the standard under [Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520 (1995)], a reasonable fact-finder could not conclude that her termination was based on any kind of whistle blowing or gender discrimination basis, and accordingly the [c]ourt is granting the motion.

Mindful of our de novo standard of review, Globe Motor Co., 225 N.J. at 479, we conclude plaintiff failed to present sufficient evidence to establish a prima facie case under both CEPA and the LAD.[2] We address first plaintiff's claims under CEPA. To withstand judicial scrutiny in the context of a summary judgment motion, a plaintiff must present evidence addressing the following four elements that make out a prima facie cause of action under CEPA:

> (1) he or she reasonably believed that his or her employer's conduct was violating either a law, rule, or regulation promulgated pursuant to law, or a clear mandate of public policy;

[2] In the interest of clarity, we note that the motion judge also relied on this court's decision in Massarano v. N.J. Transit, 400 N.J. Super. 474 (App. Div. 2008) to conclude that "[o]ne cannot engage in [whistleblowing] activities when the issues underlying ones claim fall within the sphere of his or her job related duties." Stated differently, plaintiff's role as project manager of the Passarella Project precluded her from asserting a CEPA claim as a matter of law. This aspect of the court's holding in Massarano was expressly rejected by the Supreme Court in Lippman v. Ethicon, Inc., 222 N.J. 362, 366 (2015).

> (2) he or she performed a "whistle-blowing" activity described in N.J.S.A. 34:19-3(c);
>
> (3) an adverse employment action was taken against him or her; and
>
> (4) a causal connection exists between the whistle-blowing activity and the adverse employment action.
>
> [Lippman, 222 N.J. at 380 (quoting Dzwonar v. McDevitt, 177 N.J. 451, 462 (2003)).]

Here, the record we have described in detail shows that plaintiff failed to present any evidence that KZA's decision to terminate her employment was related, in any fashion, to her performance as the project manager of the Passarella Project. Defendants presented uncontroverted evidence that the decision to terminate plaintiff's employment was motivated exclusively by the financial constraints imposed on the company by the 2008 worldwide economic crisis. Indeed, the record is replete with instances showing KZA treated plaintiff more favorably than most of her professional peers and other staff. In short, plaintiff did not present any evidence that KZA's decision to terminate her employment was an act of retaliation for her alleged "whistleblowing activity" in connection with the DEP requirements related to the Passarella Project.

We also affirm the Law Division's decision dismissing plaintiff's LAD claims as a matter of law. We begin our analysis

of this issue by addressing the following misstatement of law made by the motion judge:

> Plaintiff articulates that [she] was discriminated against by way of her gender, and her marital status, but the [c]ourt notes that plaintiff has not provided any citation to any law or case that establishes marital status as a protected class, and thus, the [c]ourt is focusing on the allegations of gender discrimination.

In this statement, the judge was wrong. In adopting the LAD, the Legislature declared, in relevant part:

> that practices of discrimination against any of its inhabitants, because of race, creed, color, national origin, ancestry, age, sex, gender identity or expression, affectional or sexual orientation, marital status, familial status, liability for service in the Armed Forces of the United States, disability or nationality, are matters of concern to the government of the State, and that such discrimination threatens not only the rights and proper privileges of the inhabitants of the State but menaces the institutions and foundation of a free democratic State . . . .
>
> [N.J.S.A. 10:5-3 (emphasis added).]

Thus, it is an "unlawful employment practice . . . [and] . . . unlawful discrimination":

> For an employer, because of . . . marital status, . . . [or] sex, . . . to refuse to hire or employ or to bar or to discharge or require to retire, . . . from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment . . . .

[N.J.S.A. 10:5-12(a) (emphasis added).]

The Supreme Court recently addressed the scope of the "marital status" protection afforded by the LAD in Smith v. Millville Rescue Squad, 225 N.J. 373 (2016). The plaintiff in Smith "was terminated from his position as operations director of a rescue squad soon after he revealed that he and his co-employee wife were separated, would not reconcile, and were about to initiate divorce proceedings." Id. at 378-79. Consistent with the public policy considerations underpinning the LAD, the Court construed "marital status" to encompass more than "the state of being single or married," and held that "the LAD also protects all employees who have declared that they will marry, have separated from a spouse, have initiated divorce proceedings, or have obtained a divorce from discrimination in the workplace." Id. at 379.

The Court reminded judges that when confronted with an interpretive question involving a novel application of the LAD, "we must recognize that the LAD is remedial legislation intended to eradicate the cancer of discrimination in our society[,] and should therefore be liberally construed in order to advance its beneficial purposes." Id. at 390 (alteration in original) (quoting Nini v. Mercer Cty. Cmty. Coll., 202 N.J. 98, 115 (2010)). Here, viewed in the light most favorable to plaintiff, a jury may find

that KZA's decision to terminate plaintiff may have been influenced by Atkins's perception that her husband's wealth was sufficient to support them both; thus she did not need to work.

Against this backdrop, we return to Smith for guidance. Writing for the Court, our colleague Judge Cuff explained that a plaintiff may establish a prima facie case of employment discrimination under the LAD by producing evidence "that an employer placed substantial reliance on a proscribed discriminatory factor in making its decision to take the adverse employment action[.]" Id. at 394 (alteration in original) (quoting A.D.P. v. ExxonMobil Research & Eng'g Co., 428 N.J. Super. 518, 533 (App. Div. 2012)). This kind of direct evidence of discrimination "may include evidence 'of conduct or statements by persons involved in the decision-making process that may be viewed as directly reflecting the alleged discriminatory attitude.'" Ibid. (quoting Fleming v. Corr. Healthcare Sols., Inc., 164 N.J. 90, 101 (2000)).

Once again, viewed in the light most favorable to plaintiff, Atkins's alleged comment to Putas may be viewed by a jury "as reflecting a discriminatory attitude" against plaintiff due to her husband's success in the real estate market. At this procedural juncture, this evidence would be enough to shift the burden to defendants to provide "evidence sufficient to show that it would

have made the same decision if illegal bias had played no role in the employment decision." Id. at 395. The record shows defendants produced the evidence necessary to satisfy this burden. At the time KZA terminated plaintiff, the company was in the midst of an undeniable and significant economic downturn. The company made several attempts to delay terminating plaintiff's employment, and initially shielded plaintiff from the full impact of a cost-savings measure by reducing her salary only five percent, while most of the staff experienced a ten percent reduction.

It is a well-settled principle of appellate jurisprudence that "an appeal is taken from a trial court's ruling rather than reasons for the ruling." N.J. Div. of Child Prot. & Permanency v. K.M., 444 N.J. Super. 325, 333 (App. Div.) certif. denied, 227 N.J. 211 (2016) (citation omitted). Here, although the motion judge erred when she did not consider marital status to be within the class protected by the LAD, the error does not constitute grounds to reverse the judge's ultimate decision to dismiss plaintiff's complaint as a matter of law.

Affirmed.