8:18-cv-00705-JVS-JPR
Wallen Lawson v. PPG Industries, Inc.

TENTATIVE Order Regarding Defendant's Motion for Judgement as a Matter of Law [215]

Before the Court is Defendant PPG Architectural Finishes, Inc.'s ("PPG") renewed motion for judgment as a matter of law. (Mot., Dkt. No. 215.) Plaintiff Wallen Lawson ("Lawson") opposed. (Opp'n, Dkt. No. 222.) PPG filed a Reply. (Reply, Dkt. No. 226.)

For the following reasons, the Court **DENIES** the motion.

I. BACKGROUND

The parties are familiar with the facts of this case. (See Dkt. Nos. 101, 105.) This litigation stems from Lawson's contention that PPG wrongfully terminated him from his position as a territory manger servicing Lowe's stores. (Joint Statement, Dkt. No. 163, 1.) Specifically, Lawson alleged that his Regional Manager, Clarence Moore ("Moore"), directed his subordinates to mis-tint large quantities of paint products the wrong color to force Lowe's to sell the paint at a discount. (Id.) According to Lawson, Moore placed him on a performance improvement plan ("PIP") and pushed for his termination after he told Moore that he refused participate in the allegedly fraudulent mis-tinting scheme and submitted anonymous ethics complaints to PPG. (Id.) In response, PPG claimed that it terminated Lawson for ongoing performance issues and that the individuals who terminated Lawson were unaware of his anonymous complaints. (Id. at 1–2.) Further, PPG alleged that it would have terminated Lawson for performance issues regardless of his alleged whistleblowing activity. (Id. at 2.)

After several years of litigation, the Ninth Circuit reversed this Court's order granting summary judgment in favor of PPG. (Ninth Cir. Mem., Dkt. No. 105; Order, Dkt. No. 101.) Then, beginning April 22, 2025, this Court held a jury trial. (Minutes, Dkt. No. 170.) At the close of evidence, PPG filed its first motion for judgment as a matter of law. (Dkt. No. 182.) The Court denied the motion with respect to Lawson's retaliation claim under California Labor Code § 1102.5 and his wrongful termination claim. (Minutes, Dkt. No. 185.)

On May 1, 2025, the jury returned a verdict in favor of Lawson. (Id.) Pursuant to the jury's Special Verdict, the jury awarded Lawson $20,000 in back pay damages and $2,000,000 in non-economic damages. (Judgment, Dkt. No. 200.) PPG then filed this renewed motion for judgment as a matter of law or, in the alternative, a new trial. (Mot.)

II. LEGAL STANDARD

1. *Motion for Judgment as a Matter of Law*

Pursuant to Fed. R. Civ. P. 50(a), a motion for judgment as a matter of law must be made before the case is submitted to the jury and must specify the judgment sought and the law and facts that entitle the movant to the judgment. Fed. R. Civ. P. 50(a). If the Court does not grant the motion, then "the court is considered to have submitted the action to the jury subject to the court's later deciding the legal questions raised by the motion." E.E.O.C. v. Go Daddy Software, Inc., 581 F.3d 951, 961 (9th Cir. 2009); Zion v. Cty. of Orange, No. 8:14-cv-01134, 2019 U.S. Dist. LEXIS 228259, at *15 (C.D. Cal. Apr. 17, 2019).

A party may move to renew its motion for judgment as a matter of law under Fed. R. Civ. P. 50(a) within twenty-eight days after the entry of judgment, or if the motion addresses a jury issue not decided by a verdict, no later than twenty-eight days after the jury was discharged. Fed. R. Civ. P. 50(b). It may also move in the alternative a request for a new trial under Fed. R. Civ. P. 59. Id.

A moving party is entitled to judgment as a matter of law if the evidence, construed in the light most favorable to the nonmoving party, permits only one reasonable conclusion that is contrary to the jury's verdict. E.E.O.C., 581 F.3d at 961. A jury's verdict "must be upheld" if it is supported by substantial evidence, even where it "is possible to draw a contrary conclusions." Pavao v. Pagay, 307 F.3d 915, 918 (9th Cir. 2002). In ruling on a motion for judgment as a matter of law, the court may: "(a) allow the judgment to stand, (b) order a new trial, or (c) direct entry of judgment as a matter of law." White v. Ford Motor Co., 312 F.3d 998, 1010 (9th Cir. 2002). Judgment is appropriate "if there is no legally sufficient basis for a reasonable jury to find for that party on that issue." Costa v. Desert Palace, Inc., 299 F.3d 838, 859 (9th Cir. 2002). Additionally, when making its determination, the Court cannot "make credibility determinations" and "must

disregard all evidence favorable to the moving party that the jury is not required to believe." Tan Lam v. City of Los Banos, 976 F.3d 986, 995 (9th Cir. 2020) (quoting Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 159-51 (2000)).

2. *Motion for a New Trial*

Pursuant to Rule 59(a), in an action in which there has been a jury trial, a new trial may be granted "for any reason for which a new trial has heretofore been granted in an action at law in federal court." Fed. R. Civ. P. 59(a). Courts may grant new trials, "even though the verdict is supported by substantial evidence, if the verdict is contrary to the clear weight of the evidence, or is based upon evidence which is false, or to prevent, in the sound discretion of the trial court, a miscarriage of justice." United States v. 4.0 Acres of Land, 175 F.3d 1133, 1139 (9th Cir. 1999) (internal quotations omitted). Courts may also grant a new trial where damages are "grossly excessive or monstrous, clearly not supported by the evidence, or based only on speculation or guesswork." Del Monte Dunes v. City of Monterey, 95 F.3d 1422, 1435 (9th Cir. 1996).

Authority to grant a new trial "is confided almost entirely to the exercise of discretion on the part of the trial court." Allied Chem. Corp. v. Daiflon, 449 U.S. 33, 36 (1980) (per curiam). However, a trial court may "not grant [a new trial] simply because the court would have arrived at a different verdict." Pavao, 307 F.3d at 918.

III. DISCUSSION

PPG moves for judgment as a matter of law or, in the alternative, for a new trial. (Mot. at 3.) In the event that this Court declines to grant a new trial, PPG request that this Court reduce Lawson's emotional distress damages to an amount "proportionate to the evidence presented at trial." (Id.) The Court addresses each of PPG's arguments in turn.

1. *Renewed Motion for Judgment as a Matter of Law*

a. Lawson's Section 1102.5 Claim

California Labor Code § 1102.5(b) states in relevant part that "an employer . . . shall not retaliate against any employee for disclosing information . . . to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance . . . if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute . . . ." Cal. Labor Code § 1102.5(b). Section 1102.5(c) prohibits retaliation "against an employee for refusing to participate in an activity that would result in a violation of a state or federal statute . . . ." Id. § 1102.5(c).

Section 1102.6 employs a two-step analytical framework. "First, it must be 'demonstrated by a preponderance of the evidence' that the employee's protected whistleblowing was a 'contributing factor' to an adverse employment action." Lawson v. PPG Architectural Finishes, Inc., 12 Cal. 5th 703, 712 (2022) (quoting Cal. Labor Code § 1102.6). Second, "the employer bears 'the burden of proof to demonstrate by clear and convincing evidence' that the alleged adverse employment action would have occurred 'for legitimate, independent reasons' even if the employee had not engaged in protected whistleblowing activities." Id.

i. *Whether Lawson Proved That His Protected Activity Was a Contributing Factor to PPG's Decision to Terminate His Employment*

PPG claims that it is entitled to judgment as a matter of law on Lawson's Section 1102.5 claim because Lawson supposedly did not provide substantial evidence that his protected activity was a contributing factor to PPG's decision to terminate his employment. (Mot., Mem. in Supp., Dkt. No. 215-1, 8.) See Lawson, 12 Cal. 5th at 713. A contributing factor includes "any factor, which alone or in connection with other factors, tends to affect in any way the outcome of the decision." Rookaird v. BNSF Ry. Co., 908 F.3d 451, 461 (9th Cir. 2018). Accordingly, Lawson could meet his burden of proving unlawful retaliation even when "other, legitimate factors also contributed to the adverse action." Lawson, 12 Cal. 5th at 713–14.

(1) Moore's Credibility

As a threshold matter, the Court notes that a reasonable jury could have questioned Moore's credibility. According to Lawson, Moore supposedly lied about not directing his territory managers to mis-tint paint even though fourteen territory managers told PPG's investigator otherwise, (Ex. 78)[1], the investigator concluded that he directed the mis-tinting, (id.), and PPG disciplined Moore in connection to the mis-tinting, (Ex. 82). (Opp'n at 6.) Further, Moore originally stated that he placed Lawson on a PIP because of his sales numbers, but later claimed that it was because of his low Market Walk scores. (Id. at 13 (citing April 29, 2025 Hr'g Tr. Vol. II, Dkt. No. 232, 30:10-32:21).) Relying on similar evidence, the Ninth Circuit concluded that "the record contains multiple bases for impeaching Moore's credibility."[2] (Ninth Cir. Mem., at 5.)[3] Further, because "Moore was involved in every decision or action that led to PPG's termination of Lawson's employment," (id. at 2), Moore's credibility is important in evaluating the evidence. Thus, the Court analyzes PPG's evidence with the understanding that a reasonable jury could have questioned Moore's credibility.

(2) Moore's Decision to Place Lawson on a PIP

First, Lawson argued at trial that he told Moore that he refused to mis-tint paint during a April 25, 2017 phone call, which contributed to Moore's decision to place him on a PIP and PPG's ultimate decision to terminate him. (Opp'n at 6 (citing April 23, 2025 Hr'g Tr. Vol. I, Dkt. No. 202, 60:23-62:21, 63:3-6).) PPG disputes this contention. (Mem. in Supp., at 8.) According to PPG, the three minute phone[4] conversation was too short because "[i]t is simply not credible to

[1] All citations to exhibits in this Order refer to the trial exhibits lodged at Dkt. No. 228.

[2] The Ninth Circuit also relied on the fact that, although "Moore testified in his deposition that he did not request Lawson's termination, [] the record contains an email dated August 21, 2017, in which Moore explicitly requested Lawson's termination." (Ninth Cir. Mem., at 5 n.1.)

[3] The Court notes that the Ninth Circuit made its findings at the summary judgment stage. However, the same evidence before the Ninth Circuit was also presented at trial. (See Opp'n at 12.) Thus, throughout this Order, the Court utilizes the Ninth Circuit's analysis as helpful guidance, but not as dicta.

[4] PPG also claims that Lawson was inconsistent in his recollection of this conversation. (Mem. in Supp., at 9.) For example, Lawson testified prior to trial that this conversation happened in person, (April 25, 2025 Hr'g Tr. Vol. II, Dkt. No. 231, 31:15-32:13), and did not

believe that within those three minutes, Plaintiff told Moore a story about a coworker misusing a postage stamp machine and another story about Watergate; neither of which he actually recanted from start to finish during his testimony." (Id. at 9, 15.) Further, Moore denied "the substance of this conversation" and, two months later, Lawson stated in an anonymous report that he had not reported the issue to management. (Id. at 9.) Finally, PPG disputes that Moore requested Lawson be put on a PIP the day after their phone conversation. (Id. at 10.) According to PPG, the evidence demonstrates that Moore decided to place Lawson on a PIP before the phone conversation took place. (Id. (citing April 30, 2025 Hr'g Tr. Vol. I, Dkt. No. 205, 37:13-38:1).)

In response, Lawson points to his own testimony at trail, in which he recounted the phone conversation, and Moore's seemingly upset response, in detail. (Opp'n at 6; April 23, 2025 Hr'g Tr. Vol. I, 62:11–17.) Lawson also provided his phone records, which show that Lawson and Moore spoke on the phone on April 25, 2017, (Ex. 93), and provided evidence that Moore requested Lawson be placed on a PIP the next day, (Ex. 38). (Opp'n at 6.) Further, although Moore stated during direct examination that he discussed placing Lawson on a PIP two weeks before his April 25, 2017 conversation, the evidence does not definitely establish this fact.[5] (Id.) Thus, a reasonable juror could

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mention the conversation at all in his Second Amended Complaint. (Mem. in Supp., at 9 n.9.)

[5] Reviewing similar evidence, the Ninth Circuit stated:

> Nothing in the record clearly demonstrates that Moore had decided to place Lawson on a PIP prior to Moore's April 26 email to Andrew Mayhew . . . Although PPG claims that Mayhew's responsive email shows that the two of them had discussed placing Lawson on a PIP weeks earlier, that response can reasonably be read as stating only that Moore and Mayhew had previously discussed Lawson's performance issues. The point is significant, because a reasonable jury could find that Lawson confronted Moore about the mis-tinting scheme as late as April 25 and that Moore *then* requested the PIP—which he had not previously raised with Lawson—a day later. That finding would permit a reasonable inference that the PIP, which set Lawson on the path to termination, was a retaliatory response to the protected activity of refusing to engage in illegal conduct[.]

(Ninth Cir. Mem., at 7–8 (emphasis in original).)

conclude that, because Moore request that Lawson be placed on a PIP the day after Lawson confronted Moore, "the PIP, which set Lawson on the path to termination, was a retaliatory response . . . ." (Id. at 7.)

The Court agrees that, construing the evidence in the light most favorable to Lawson, the jury's verdict is reasonable and supported by substantial evidence. Pavao, 307 F.3d at 918. First, PPG's argument that the three minute phone call was too short is speculative. A reasonable jury could have concluded that Lawson had time to tell his stories and tell Moore that he would not mis-tint paint on the phone call. Further, Lawson provided his phone records to support this contention. Thus, the Court declines to question Lawson's credibility. Tan Lam, 976 F.3d at 995. Additionally, given the inconsistency in the record regarding when Moore decided to place Lawson on a PIP, substantial evidence supported the conclusion that Moore decided to place Lawson on a PIP after the April 25, 2017 phone call. Thus, the Court declines to grant the motion on this basis.

(3) Lawson's Market Walk Scores and Sales Metrics

Second, even if Lawson did tell Moore that he refused to mis-tint paint, PPG claims that any conclusion by the jury that Lawson's refusal contributed to his termination was not supported by substantial evidence. (Mem. in Supp., at 9.) According to PPG, the evidence "confirms [Lawson] was underperforming for months beforehand – and continued to underperform up through his termination." (Id.) For example, in December 2016, Lawson scored "marginal" on his first Market Walk with Moore. (Id.) Then, Lawson scored "unsuccessful" on his March and April 2017 Market Walks and received a verbal warning as a result. (Id. at 9–10.) Lawson also allegedly missed his sales target for eight of the preceding twelve months through March 2017. (Id. at 10.) Thus, PPG claims that "any insinuation that Moore engineered [Lawson]'s PIP to fit a narrative flies in the face of months of well-documented performance issues" taking place before Lawson's refusal to mis-tint paint. (Reply at 7.)

Further, PPG argues that, even if Lawson's alleged confrontation of Moore contributed to him being placed on a PIP, Lawson continued to underperform after being placed on a PIP. (Mem. in Supp., at 10.) For example, Moore noted in

Lawson's June Market Walk[6] that Lawson's training roster was inaccurate and the stores were at zero percent compliance with MAP objectives. (Id.) Additionally, during the August Market Walk, Moore noted inconsistencies between Lawson's training roster and his TMS reports, and that Lawson was not completing the MAP items. (Id. at 10–11 (citing Ex. 70).) As of August 31, 2017, Lawson reported to Moore that he had not completed any of his sales objectives for a single store in his terrirory and had set no store objectives. (Id. at 11 (citing Ex. 259).) Finally, Lawson's April, May, and June sales numbers remained below 100%. (Id. (citing Ex. 70).) Thus, PPG claims that, because "Moore's evaluation of [Lawson] remained consistent from December 2016 to August 2017," and because Lawson did not complete his requirements under his PIP, "no reasonable jury should have concluded that Plaintiff's alleged protected activity was a contributing factor in PPG's decision to terminate his employment." (Id.)

In response, Lawson points out that Moore was solely responsible for grading his Market Walks and managing his PIP. (Opp'n at 7.) Thus, because the evidence that Lawson was underperforming came from Moore, and because Moore is not credible, it was reasonable for the jury not to believe this evidence.[7] (Id. at 10.) Further, despite claiming that the PIP was an opportunity for Lawson to improve, Moore supposedly ignored his obligation to meet with Lawson weekly to track his progress and did not properly explain his Market Walk scores to Lawson.[8] (Id. at 7; April 29, 2025 Hr'g Tr. Vol. II, 40:17–18, 40:20–41:19, 41:24–42:2.) Additionally, Moore "exercised wide discretion in grading" Lawson, gave Lawson lower scores than he received under Moore's predecessor, (Exs. 23, 70), and did not grade Lawson according to PPG guidelines. (Opp'n at 7.) For

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[6] PPG also claims that the Lawson's June Market Walk score was higher than the three previous scores that preceded Lawson's April complaint to Moore, which "undermines the suggestion" that the April call contributed to Moore's evaluation of Lawson. (Mem. in Supp., at 10.)

[7] Lawson also argues that PPG did not introduce any documents into evidence establishing deficient training rosters, that the MAP items were not being done, or that no training was done in the ELITE upsell store aside from Moore's testimony and notes on the Market Walk reports. (Opp'n at 10.)

[8] In response, PPG points to Exhibits 29 and 73, which are emails that Moore sent to Lawson providing specific feedback from his Market Walks. (Mem. in Supp., at 9 n.13; see Exs. 29, 73.)

example, during the August 17, 2017 Market Walk, Moore awarded Lawson 0 points 17 times, despite PPG's policy to give partial credit. (Id. at 7–8; see Ex. 70.) Further, Moore docked 5 points from Lawson for force outs even though Lawson only committed one force out and two force outs were required to deduct points from his score. (Id. at 7–8; see Ex. 70.)[9] Finally, Moore was issued a formal warning to not award or deduct points from employee's Market Walk scores depending on whether they were willing to mis-tint paint. (Id. at 8; Ex. 82.) Thus, a reasonable jury could have concluded that Moore placed Lawson on a PIP, and subsequently gave him low Market Walk scores, to induce his termination. (Id. at 9.)

As for Lawson's low sales numbers, Lawson claimed at trial that he had limited control over business at his stores and that Moore was aware that Lawson was assigned multiple under-performing stores. (Id. at 13 (citing April 23, 2025 Hr'g Tr. Vol. II, Dkt. No. 230, 21:11-23:12).) Finally, Lawson claims that, although Moore testified that he was not "immediately" involved in assigning underperforming stores to Lawson, (April 30, 2025 Hr'g Tr. Vol. I, 10:25–11:3), the jury was entitled to discredit Moore's testimony. (Opp'n at 14.) Thus, according to Lawson, "[t]he jury may have concluded that [] Moore arranged to assign [] Lawson lower performing stores, or probably more likely . . . he decided to ignore the fact of [] Lawson carrying lower-performing stores in making the decision to terminate." (Id. at 15.)

In contrast, PPG claims that Lawson's attribution of his low sales to underperforming stores "fell apart on cross examination." (Mem. in Supp., at 13 n.18.) Specifically, one of the stores that Lawson asserted had been given to him in 2017 "had actually been one of his stores since the beginning."[10] (Id.) Further, "to comp positive, [Lawson] only had to sell the same amount of paint as was sold in that same store in the same month one year prior." (Id.; April 25, 2025 Hr'g Tr.

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[9] Lawson also claims that this Market Walk occurred after PPG's investigator met with Moore regarding his directive to mis-tint paint which, according to Lawson, gave Moore an incentive to give Lawson a low Market Walk score. (Opp'n at 8.)

[10] Lawson admits that he misstated the date at which he acquired this store during his testimony. (Opp'n at 14.) However, according to Lawson, the jury could have concluded that this was an honest mistake and, thus, this statement did not damage Lawson's credibility. (Opp'n at 14.)

Vol. I, Dkt. No. 203, 71:23-72:11). Finally, PPG claims that two of the stores that Lawson claims were underperforming only moved to the bottom twenty stores six month after Lawson was terminated. (Id. (citing Exs. 227, 264).)

In evaluating similar evidence, the Ninth Circuit held that "PPG provided no evidence that it normally terminates an employee for low market walk scores." (Ninth Cir. Mem., at 11.) Further, PPG's lack of guidance on Market Walk scoring, coupled with "the wide variability of market walk scoring between different managers[,] supports a reasonable inference that PPG does *not* consider one manager's market walk scores to be a dispositive measure of an employee's performance." (Id. (emphasis in original); see also Opp'n at 8.) The Ninth Circuit stated:

> [T]he scores for Lawson before and after his protected activity alone do not prove that the post-protected activity scores are accurate. Indeed, Lawson argues that but for Moore's allegedly arbitrary decision to score Lawson's performance at zero in places where he should have received partial credit, Lawson would have successfully completed his PIP. PPG also disregards the possibility that Lawson improved and Moore refused to acknowledge that improvement because of his retaliatory motive.

(Id. at 10.) Finally, the Ninth Circuit concluded that "[a] reasonable jury could find that Moore's retaliatory motive contributed to his deficient management of Lawson's PIP, and that the deficient management contributed to Lawson's failure to successfully complete it." (Id. at 8.)

The Court finds the Ninth Circuit's reasoning applicable here. Given the fact that Moore controlled Lawson's Market Walk scores, a reasonable jury could have concluded that Moore gave Lawson low scores in order to induce his termination. Although Lawson had low Market Walk scores and sales numbers prior to his refusal to mis-tint paint, Lawson presented substantial evidence that Moore placed Lawson on a PIP, and refused to help him improve while on a PIP, due to his protected activity. Further, substantial evidence supports the inference that the stores which closed after Lawson's termination were declining prior to their assignment to Lawson, (See Opp'n at 14), and that Moore did not consider this in his evaluation of Lawson. Thus, Lawson presented substantial evidence

that his protected activity at least partially contributed to his low market walk score, low performance on his PIP, and ultimate termination.

(4) Anonymous Complaints

Finally, PPG states that, although Lawson also provided evidence of two anonymous complaints submitted to the ethics hotline, Lawson did not state that these complaints were part of the "protected activity" leading to his termination. (Mem. in Supp., at 8.) Further, according to the evidence, Lawson's superiors were all supposedly unaware that Lawson made the complaints. (Id.) PPG claims that, even if one of Lawson's supervisors, Mr. Duffy, heard Lawson's voice mail greeting, he was still unaware that Lawson made the reports because he reported after the call that "[t]he reporter did not provide a name – since they were still concerned about remaining anonymous." (Id. (citing Exhibit 50).)

In response, Lawson claims that "the anonymous complaints were important to the case, as they led to the investigation and (limited) discipline of Clarence Moore." (Opp'n at 6 n.1.) Further, the jury could have concluded that the investigation was part of Moore's retaliation against Lawson after Moore "put together" that Lawson was the one making the complaints. (Id.) Thus, the Court considers the anonymous complaints as additional evidence in this context. However, given the analysis above, Lawson presented substantial evidence to support the jury's verdict despite these anonymous complaint. Consequently, the inclusion of the anonymous reports does not change the outcome of this case.

ii. *Whether PPG Established by Clear and Convincing Evidence That it Terminated Lawson for Legitimate, Independent Reasons*

Once Lawson established that retaliation was a contributing factor in his termination, the burden shifted to PPG to show by clear and convincing evidence that it would have terminated Lawson for legitimate, independent reasons. Lawson, 12 Cal. 5th at 718. Clear and convincing evidence requires that PPG show that its alternative explanation is "highly probable." See CACI 201; Vataloro v. County of Sacramento, 79 Cal. App. 5th 367, 386 (2022). As the Ninth Circuit stated: "even assuming PPG demonstrated that it *could* have terminated Lawson for the legitimate reasons it identified," it would still need to

demonstrate "'by clear and convincing evidence, that it *would* have' terminated Lawson for those reasons, even if he had 'not engaged in protected activity.'" (Ninth Cir. Mem., at 6 (emphasis in original) (quoting Lawson, 12 Cal. 5th at 718).)

PPG argues that it established by clear and convincing evidence that it would have terminated Lawson for performance issues absent his protected activity. (Mem. in Supp., at 12.) First, Lawson was placed on a PIP after he missed his sales numbers for eight of the preceding twelve months, had received three low market walk scores, and was issued a verbal warning. (Id.) Because this mirrored the trajectory of other employees who were also placed on PIPs, Lawson "was treated no differently than [his] peers." (Id. at 12–13 (citing Exs. 270–71); Reply at 7.) Second, PPG claims that Lawson failed to satisfy the terms of his PIP. (Id. at 13.) Lawson's sales were negative for Q2, he did not obtain successful Market Walk scores for July and August, and he did not meet the national and regional sales objectives. (Id. (citing Ex. 259); Reply at 8.) According to PPG, Lawson "provided no evidence to contest these facts and never argued that he had satisfied the requirements of his PIP." (Id.) Finally, PPG argues that, the fact that other employees who raised mis-tinting concerns remained employed, further undermines Lawson's theory. (Id. at 11 n.16; Reply at 8.) Thus, PPG claims that it terminated Lawson for independent reasons. (Reply at 8.)

In response, Lawson again points out that Moore controlled all the evidence presented by PPG, including the Market Walk scores. (Opp'n at 11.) Thus, a reasonable jury could likely conclude that "the testimony and documents kept by [] Moore were not credible." (Id.) Further, although Moore stated that he placed three other employees on PIPs, PPG did not establish that Lawson's performance issues were comparable to the other employees, or "that Moore managed the other employees' PIPs in a similarly deficient manner."[11] (Id. at 11-12; see Ninth Cir. Mem. at 8–9.) Thus, according to Lawson, "[t]he jury acted reasonably in determining that PPG failed to carry the burden on its affirmative defense." (Id. at 15.)

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[11] In response, PPG flips this on its head and argues that Lawson "introduced no admissible or substantial evidence that Moore treated similarly situated employees more favorably or applied the evaluation criteria differently." (Reply at 8.) However, PPG ignores the fact that it bears the burden of establishing independent grounds, not Lawson.

The Court agrees that PPG did not meet its burden of establishing by clear and convincing evidence that it would have terminated Lawson for legitimate, independent reasons. First, as stated above, Lawson's low market walk scores, low sales numbers,[12] and inability to satisfy his PIP can be attributed to Moore's potential retaliation against Lawson and Moore's deficient management of Lawson's PIP. This differentiates Lawson from other employees who were placed on PIPs. The Court further finds that the Ninth Circuit observation is applicable here: "PPG provided no evidence that it normally terminates an employee for low market walk scores," and the evidence supports a reasonable inference that "PPG does *not* consider one manager's market walk scores to be a dispositive measure of an employee's performance." (Ninth Cir. Mem. at 11 (emphasis in original).) Thus, PPG's reliance on Lawson's low market walk scores and low sales numbers as an independent reason for termination are not convincing. (See id.) Although PPG *could* have terminated Lawson for independent reasons, PPG did not provide enough evidence that it *would* have, absent Lawson's protected activity. Lawson, 12 Cal. 5th at 718.

Consequently, the Court **DENIES** PPG's motion for renewed judgment as a matter of law as to Lawson's Section 1102.5 Claim.

b. Lawson's Wrongful Termination Claim

This Court instructed the jury that, in order to find for Lawson on his wrongful termination claim, Lawson must prove that his "refusal to follow Clarence Moore'[s] directive to mis-tint paint . . . was a substantial motivating reason for [] Lawson'[s] firing." (Jury Instructions, Dkt. No. 188, 19.) PPG only makes one argument in relation to its wrongful termination claim: "A 'substantial motivating reason' is more than a 'contributing factor,' and the evidence at trial was insufficient to support a finding that [Lawson]'s three-minute phone call to Moore was a substantial motivating reason for his termination nearly five months later." (Mem. in Supp., at 14.) However, given the Court's finding above—that Lawson provided substantial evidence that the phone call was a contributing factor

[12] As the Ninth Circuit stated, "[a]lthough Lawson's failure to meet sales targets reflects a more objective metric, there are factual disputes concerning this issue that would permit a reasonable jury to find that PPG's proof [and claimed reliance on missed sales targets] was not clear and convincing." (Ninth Cir. Mem., at 11.)

in PPG's decision to terminate Lawson's employment—Lawson provided substantial evidence that his phone call substantially motivated his termination.

Consequently, the Court **DENIES** PPG's motion as to Lawson's wrongful termination claim.

2. *Motion For a New Trial*

a. Whether The Verdict Was Contrary to the Clear Weight of the Evidence

PPG claims that a new trial is warranted because the verdict was contrary to the clear weight of the evidence. (Mem. in Supp., at 15.) First, PPG focuses on the manner in which Lawson testified. (Id.) For example, Lawson "was often confused about the performance metrics of his position as a Territory Manager, could not recall what his own notes said or the significance of them, gave testimony that was later impeached,[13] and generally could not answer simple questions about the essence of his claims with a straightforward answer." (Id.) In contrast, Moore supposedly "credibly testified as to the performance metrics he used in conducting a market walk, why certain things were considered, how he scored market walks and the deficiencies he saw at the time in [Lawson]'s performance, often with reference to supporting documents." (Id. at 16 (emphasis omitted).)

The Court finds that the verdict was not against the clear weight of the evidence. As stated above, a reasonable jury could have concluded that Moore was not a credible witness. Further, Lawson's confusion on the stand does not necessarily discredit his testimony. The Court agrees with Lawson that "most of [the problems PPG points to] can be explained as the difficulties of an aging man asked to recall specific details of the job" he held eight years prior. (Opp'n at 17.)

[13] For example, PPG argues that, Lawson stated that he told Laura Sanchez about his hotline report on direct examination, but later admitted during cross examination that he never told anyone at PPG that he made that report. (Mem. in Supp., at 16.) Similarly, Lawson's statements that he never received feedback from Moore and that he had been reassigned an underperforming store were impeached on cross examination. (Id.) Finally, PPG states that "[o]n direct, [Lawson] didn't even acknowledge his December or April Market Walks with Moore, but on cross admitted those two were underperforming." (Id.)

As stated above, a reasonably jury could have concluded that any mix-ups on Lawson's part were honest mistakes and did not damages his overall credibility. Further, any inconsistences in Lawson's testimony likely did not significantly impact the jury's verdict.[14] Thus, the verdict was not against the clear weight of the evidence.

b. Whether Highly Prejudicial Evidence Was Introduced Over PPG's Objection

PPG argues that certain admitted evidence should have been excluded at trial, and that "its inclusion was highly prejudicial and tainted the jury's ultimate verdict." (Mem. in Supp., at 17.) This evidence includes: (1) evidence of how PPG disciplined Moore following its investigation, and (2) evidence that PPG was defrauding Lowe's.[15] (Id.)

According to PPG, Lawson's closing argument made it "clear" that he was placing "PPG on trial for allegedly committing fraud on Lowe's . . . ." (Id.) For example, Lawson's counsel supposedly improperly suggested during closing argument that whether PPG committed fraud was a question for the jury. (Id.) Counsel emphasized the survey conducted months after Lawson's termination regarding potential fraud and the fact that Lowe's dropped PPG's products because of the fraud. (Id. at 17–18.) Further, counsel told the jury that they should also consider the fact that PPG supposedly had not disclosed the fraud to Lowe's. (Id.) Thus, Lawson's references to fraud, and the fact that Moore was not sufficiently disciplined for the fraud, was supposedly "highly prejudicial" and material to the jury's verdict. (Id. at 18.)

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[14] For example, Lawson admits that he testified at trial that he had multiple conversations with Moore regarding the mis-tinting, but had stated in an early deposition that they only had one conversation. (Opp'n at 18.) However, this inconsistency was likely immaterial because only one complaint was needed to put Moore on notice of Lawson's refusal to mis-tint paint. (See id.)

[15] PPG also claims that this Court improperly admitted ceratin hearsay evidence regarding the sales performance of other Territory Managers over PPG's objection. (Mem. in Supp., at 17.) However, because PPG provides no further argument regarding this specific evidence, the Court does not consider this evidence in its analysis. (See Opp'n at 20.)

Additionally, PPG claims that the allegedly disparate treatment of Moore was improperly admitted. (Id.) First, the alleged fraud was supposedly never proven at trial. (Id.) Second, the evidence established that Cathie McKinley—who had no role in Lawson's termination and no knowledge of any complaint—made the decision about Moore's discipline six months after Lawson's termination. (Id. (citing April 29, 2025 Hr'g Tr. Vol. II, 3:13-17; McKinley Depo., 10:10-11:5, at ECF 155-7).) Thus, according to PPG, "[i]t defies logic to suggest that McKinley's decision about the appropriate discipline sheds any light on the motivation of Moore, Kascir or Andy Mayhew in carrying out Lawson's termination." (Id.) Further, PPG claims that, given Lawson's supposed lack of evidence to dispute his performance deficiencies, this evidence was material to the jury's decision. (Id.)

In response, Lawson claims that the closing argument statements regarding the fraud were not "evidence" for the purposes of a new trial motion. (Opp'n at 20.) Specifically, this Court instructed the jury that "[a]rguments and statements by lawyers are not evidence. The lawyers are not witnesses. What they say in their opening statements, closing arguments, and at other times is intended to help you interpret the evidence, but it is not evidence." (Id.; May 1, 2025 Hr'g Tr. Vol. I, Dkt. No. 206, 17:17-18.) Further, PPG supposedly could have objected and asked for a curative instruction during trial, but it failed to do so. (Id. at 21.) See Settlegoode v. Portland Pub. Sch., 371 F.3d 503, 517 (9th Cir. 2004) (citing Kaiser Steel Corp. v. Frank Coluccio Const. Co., 785 F.2d 656, 658 (9th Cir. 1986) ("There is an even 'high[er] threshold' for granting a new trial where, as here, defendants failed to object to the alleged misconduct during trial;" thus, absent a contemporaneous objection, the court reviews for plain error). Additionally, Lawson argues that PPG's failure to properly discipline Moore, "was highly probative of the culpability of [PPG]," and demonstrated PPG's policy towards whistleblowers. (Opp'n at 21–22.) Finally, this argument was raised primarily in relation to Lawson's request for punitive damages, which was rejected by the jury. (Id.)

The Court finds that the evidence regarding PPG's internal investigation and the discipline of Moore does not warrant a new trial. First, some of this evidence was relevant to PPG's policy towards whistleblowers and the mis-tinting scheme in general. Further, PPG did not object to this information during trial. See Settlegoode, 371 F.3d at 517 (citing Kaiser Steel Corp., 785 F.2d at 658).

Finally, as stated above, Lawson has presented sufficient evidence to dispute his performance deficiencies and for a reasonable jury to conclude that he was terminated because of his alleged protected activity. Thus, the additional information regarding PPG's alleged fraud and discipline of Moore was not material to the jury's verdict. The Court declines to grant a new trial on this basis.

c. Whether PPG is Entitled to a New Trial or Remittitur of the Jury's Compensatory Damages Award

Courts should "allow substantial deference to a jury's finding of the appropriate amount of damages" and should "uphold the jury's finding unless the amount is grossly excessive or monstrous, clearly not supported by the evidence, or based only on speculation or guesswork." Del Monte Dunes, 95 F.3d at 1435.

With respect to motions made under 59(a)(1), "[w]hen the court . . . determines that the damages award is excessive, it has two alternatives. It may grant defendant's motion for a new trial or deny the motion conditional upon the prevailing party accepting a remittitur." Fenner v. Dependable Trucking Co., Inc., 716 F.2d 598, 603 (9th Cir. 1983); see Delegat's Wine Estate Ltd. v. American Wine Distributors, Inc., 2012 WL 1925664 (N.D. Cal. May 24, 2012) (relying on Fenner to find that lack of meaningful evidence of financial condition on a Rule 59(a) motion provides two options: remittitur or new trial); see also Linn v. United Plant Guard Workers of Am., Local 114, 383 U.S. 53, 65–66 (1966) ("If the amount of damages awarded is excessive, it is the duty of the trial judge to require a remittitur or a new trial.").

"Evidence supporting an emotional damages award may consist of nothing more than oral testimony." Bell v. Williams, 108 F.4th 809, 832 (9th Cir. 2024) (citing Zhang v. Am. Gem Seafoods, Inc., 339 F.3d 1020 (9th Cir. 2003)); see also Passantino v. Johnson & Johnson Consumer Prods., Inc., 212 F.3d 493 (9th Cir. 2000); see also Johnson v. Hale, 13 F.3d 1351, 1352 (9th Cir. 1994) ("[C]ompensatory damages may be awarded for humiliation and emotional distress established by testimony or inferred from the circumstances, whether or not plaintiffs submit evidence of economic loss or mental or physical symptoms"). "A remittitur must reflect 'the maximum amount sustainable by the proof.'" Oracle Corp. v. SAP AG, 765 F.3d 1081, 1094 (9th Cir. 2014) (citation omitted).

PPG claims that the jury's compensatory damages award was "excessive" and based on minimal or improper evidence. (Mem. in Supp., at 19.) The Court addresses each of PPG's arguments in turn.

i. *Lawson's Potentially Prejudicial Arguments*

PPG claims that Lawson "successfully inflamed the jury to award a clearly excessive compensatory damages award" through a misrepresentation of the evidence during closing argument and a focus on damages factors "that are impermissible under the law." (Mem. in Supp., at 19.)

(1) Lawson's Evidence Regarding a Primary Care Physician in Closing Argument

First, during closing argument, Lawson's counsel mentioned that Lawson had consulted his primary care physician of thirty years about his symptoms. (Mem. in Supp., at 20 (citing May 1, 2025 Hr'g Tr. Vol. I, 65:13-23).) However, according to PPG, Lawson did not produce any evidence at trial that he was under the care of a physician, or that he had consulted a physician. (Id.) Further, Lawson did not seek to admit any medical records and did not call any physician as a witness. (Id.) Thus, according to PPG, Lawson's reference to a primary care physician in his closing argument "was highly prejudicial," and created "a false impression of credibility and severity of [Lawson]'s alleged harm." (Id.)

(2) Lawson's Arguments Regarding the Passage of Time

Second, PPG claims that Lawson's repeated references to the "passage of time," and him not being the "man he used to be," improperly swayed the jury to award an excessive verdict. (Mem. in Supp., at 20–21.) See Hayer v. Liverant, 2024 U.S. Dist. LEXIS 37539, at *10 (N.D. Cal. March 4, 2024) (denying emotional damages based on the stress of litigation).

According to PPG, although the Court instructed that damages be limited to things that were "caused by PPG," (See Jury Instructions, at 21), Lawson's counsel repeatedly stated during closing argument that Lawson "should be compensated for the passage of time in litigation, which was not the fault of PPG." (Mem. in Supp., at 21.) For example, Lawson's counsel stated: "This was Wally

Lawson when he first began at PPG, vibrant, experienced, unscathed by what would become eight long years of fighting a company that fired him and rewarded the wrongdoer." (Id. at 22.) Further, Lawson's counsel later stated that Lawson "[fought] his way for the past eight years against an unremorseful corporation to finally have his day in court." (Id.) Counsel further repeatedly emphasized that the events leading to this litigation took place almost exactly "eight years" prior. (Id.) Consequently, Lawson's argument that PPG was at fault for the passage of time was allegedly "highly prejudicial" and "in direct contradiction" of this Court's order that the parties should not present any "justice delayed in justice denied" theme to the jury. (Id. at 22–23 n.26 (citing April 22, 2025 Hr'g Tr. Vol. I, Dkt. No. 201, 19:21-22:5).[16]

In response, Lawson points out that PPG failed to object to Lawson's closing arguments regarding the passage of time. (Opp'n at 24.) Thus, because the error was not prejudicial and did not cause a miscarriage of justice, the passage of time argument does not, by itself, warrant a new trial. See Settlegoode, 371 F.3d at 517 (citing Kaiser Steel Corp., 785 F.2d at 658.

As explained below, because Lawson presented enough evidence at trial, absent these statements, to support the jury's non-economic damages award, these statements in closing argument likely did not inflame the jury to give Lawson an excessive award. This is further bolstered by the fact that the jury failed to find that Lawson was entitled to punitive damages. See Harper v. City of Los Angeles, 533 F.3d 1010, 1029–30 (9th Cir. 2008) (holding that the jury's refusal to find the perpetrator "acted with malice, fraud, or oppression belies the argument that the jury was unduly inflamed"). Accordingly, the Court declines to grant a new trail or remittitur based on these statements.

ii. *The Evidence Supporting Lawson's Non-Economic Damages Award*

According to PPG, the evidence in the record does not support the jury's $2,000,000 compensatory damages award. (Mem. in Supp., at 23.) The evidence

[16] However, during this same conversation the Court also stated that "he can say it's eight years." (April 22, 2025 Hr'g Tr. Vol. I, 22:2).

of Lawson's emotional distress came from two sources: the testimony of Lawson himself and the testimony of his daughter, Ann Belloso ("Belloso").

According to PPG, this Court only instructed the jury to award non-economic damages for past and future emotional distress and embarrassment. (Id. (citing Court's Instruction No. 22).) However, Lawson purportedly did not present any testimony that he suffered emotion distress following his termination. (Id.) For example, he did not testify that he was depressed, unable to sleep or eat, or was negatively impacted in his relationships. (Id.; Reply at 4.) Further, Lawson also did not testify that he saw a medical provider or took any medication to treat his alleged symptoms. (Id.) Finally, Lawson supposedly never stated that he was "embarrassed" during his testimony. (Id.)

Similarly, PPG claims that Belloso "testified for thirteen minutes, during which she offered hearsay testimony [and] unsupported opinion." (Id. at 24.) Belloso claimed that Lawson had called her upset *during* his employment, and that over the "last eight years," Lawson hadn't been himself, and had been depressed. (Id. (citing April 22, 2025 Hr'g Tr. Vol. II, 70:18–71:1; 70:18–71:13; 73:22–74:11).) Further, Belloso referenced her own experience of how this lawsuit had affected her and her family. (Id.) While Belloso claimed that Lawson was seeing "counselors," PPG claims that Belloso did not indicate the type of counselor and did not explain how the counselors were supposedly related to his termination from PPG. (Id.) Thus, PPG claims that nothing in Belloso's testimony supported the jury's $2,000,000 award. (Id. at 24–25.)

In response, Lawson claims that the harm he suffered was expressed during his testimony not only through his words, but through his "demeanor and delivery." (Opp'n at 24.) In fact, this Court instructed the jury that it could consider "the witness's manner while testifying." (Id. at 25; May 1, 2025 Hr'g Tr. Vol. I, 20:10.) Further, Lawson claims that "[h]e provided copious testimony that went to the emotional and psychological effects of the retaliation against him." (Id.) For example, Lawson discussed at length his love for the paint business and his work while at PPG. (Id. (citing April 22, 2025 Hr'g Tr. Vol. II, 92:8-93:2).) Lawson also discussed his distress at the mis-tinting and the treatment he suffered

from Moore that led to his termination. (Id.)[17] Further, Lawson's difficulty focusing and directly answering questions during his testimony demonstrated his distress due to these events. (Id.) Finally, the jury saw Lawson's notes related to his termination and the surrounding events, which further provided evidence of his mental state. (Id. at 25–26 (citing Exs. 76, 86).) Thus, Lawson's testimony demonstrated the harm that he suffered and continues to suffer. (Id. at 26.)

According to Lawson, this testimony was further corroborated by Belloso, who testified about the pride her father had in his career, (April 22, 2025 Hr'g Tr. Vol. II, 64:7-17), and the change she observed in him following his termination, (id. 65:3-17; 65:21-66:5; 69:6-13; 70:12-17). (Opp'n at 26.) Further, Belloso testified to the continuing nature of the harm, (id. at 70:18-71:13; 73:22-75:16), including Lawson's stress leading to high blood pressure and resulting medication, (id. at 74:4-5), and the fact that he was "upset," "depressed," "distraught," "sad," and "depleted," and had lost his "spark" and "joy," (id. at 70:25–75:5). (Opp'n at 26.) Further, Belloso testified that Lawson no longer enjoyed his hobby, had financial stress, and had experienced an overall decline as a result of his termination. (Id.) Thus, this testimony supported the jury's finding that Lawson suffered emotional and psychological harm following his termination. (Id.)

The Court finds that Lawson and Belloso's testimony, coupled with Lawson's hand-written notes, are sufficient to support the jury's non-economic damages award. In addition to the testimony recounted above, Belloso testified that Lawson sleeps more due to depression, (April 22, 2025 Hr'g Tr. Vol. II,

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[17] Lawson cites to a various portions of the transcript in support of this argument: April 23, 2025 Hr'g Tr. Vol. I, 36:12-37:12 (Lawson stated that he didn't appreciate Moore's comment that his presentation was "pathetic" and that Moore made him "uncomfortable"); 38:13-40:21, 46:7–8 (Lawson again recalled that the mis-tinting "shocked" him and made him uncomfortable); 85:7–23 (Lawson stated: "And I'm fighting for my job at this point thinking do you want me on your team?"); 87:24-88:4 (Lawson stated: "So that was very upsetting"); 97:23-98:3 (Lawson discussed how he was frustrated and felt like he was "singled out"); April 23, 2025 Hr'g Tr. Vol. II, 8:20-9:2 (Lawson discussed how he was devastated by his low Market Walk score); 9:20-24; 11:1-14:23 (Lawson stated: "I was just anxious. I was anxious . . .," "I was not happy. I was not," and "it infuriated me."); 23:7-13 (According to Lawson, "it was exhausting"); 45:18-24 (Lawson explained that he felt "pressure"); 55:10-56:5 (Lawson was "upset" and "angry"); 57:2-14 (Lawson called his wife and told her that he was "disappointed" right after PPG terminated him and further stated that things have been difficult for him over the past eight years. He also stated, "I'm just distraught about it."); 59:14-60:1.

74:18–20), and "[j]ust hasn't been himself," (id. at 74:19–20). Further Belloso testified that Lawson stopped golfing as a result of his depression, (id. at 74:14–16), suffered from low self-esteem, (id. at 75:1–5), and is now currently working for Uber Eats because he cannot find work elsewhere, (id.). Finally, due to Lawson's financial hardships, he is unable to visit his daughter and her family out of state as much as he would like to. (Id. at 71:3–9.) Finally, Lawson's hand-written notes are full of underlines and exclamation points, and comments such as "awful," "upset," "nuts," "ridiculous," and "totally over whelming situation." (Exs. 76, 86.) This evidence clearly demonstrates emotional harm outside of the harm caused by ongoing litigation. Consequently, Lawson provided substantial evidence of emotional harm.

iii. *Whether Lawson's Emotional Damages Award is Excessive in Light of His Economic Damages Award*

According to PPG, the jury's $2,000,000 award of non-economic damages was excessive because the non-economic damages were one hundred times the award of economic damages. (Mem. in Supp., at 25.) PPG cites to a string of cases in which courts upheld non-economic damages awards which did not exceed four times the award of economic damages. (Id. at 25–26.) However, the courts in these cases did not review non-economic damages based on the amount of economic damages awarded. See e.g., Hope v. California Youth Auth., 134 Cal. App. 4th 577, 595 (2005) (asking whether the non-economic damages award was proportionate to the evidence of emotional distress, not the amount of economic damages); Mathews v. Happy Valley Conf. Ctr., Inc., 43 Cal. App. 5th 236, 247 (2019) (listing the amount of economic and non-economic damages awarded without making any connection between the two awards); Colucci v. T-Mobile USA, Inc., 48 Cal. App. 5th 442, 262 Cal. Rptr. 3d 50 (2020) (same). Thus, PPG has not convinced the Court that non-economic damages must be proportionate to economic damages. See Harper, 533 F.3d 1010 (awarding non-economic damages only).

While PPG's comparison to other cases does not support its proportionality argument, the Court must still determine whether these cases support reducing Lawson's award for other reasons. The Ninth Circuit has held that Courts can consider damages awards in comparable cases to determine if the award is excessive, but that courts must "exercise caution when comparing [emotional]

damages awards between cases" because emotional damages are "subjective and difficult to quantify." Bell, 108 F.4th at 832. The Ninth Circuit has further held that, "[e]ven if two cases appear factually similar, the strength of evidence presented at trial may vary in ways impossible to fully appreciate on appellate review." Id. Thus, "the evidence presented at trial should be given foremost priority in assessing the reasonableness of a damages award" and, if such evidence is sufficient to support a high damages award, "there is no need to compare cases." Id. (citing Harper, 533 F.3d 1010).

PPG attempts to compare Lawson's emotional damages award with lower awards in other cases. For example, PPG cites to Diaz v. Tesla, Inc., in which the court lowered a $6.9 million emotional damages award to $1.5 million. 598 F. Supp. 3d 809, 383–840 (N.D. Cal. 2022). (Reply at 2.) In Diaz, the plaintiff experienced racial discrimination at work, id. at 818–19, and testified that he couldn't sleep or eat, lost his faith in humanity, and had difficulty in his personal relationships and marriage, id. at 823. The plaintiff's daughter also testified that, since these incidents, the plaintiff had become less engaged and was "'moodier' and sadder." Id. The testimony further established that, although the effects of the harassment were still ongoing, the plaintiff's "personality changed back since he left [the defendant company]." Id. The court compared the plaintiff's situation to a number of different cases in other districts and held that a lower award was warranted, in part, because the plaintiff's harm was greatly reduced once he stopped working at the company, id. at 836, the plaintiff had only worked at the company for nine months, id., and the plaintiff did not present evidence that he struggled to find a new job, id. at 839.

Further, PPG cites to Hope v. California Youth Auth., in which the court upheld a $1,000,000 award in emotional distress damages where the plaintiff experienced anxiety from the harassment he received at work and ultimately developed a bleeding blister in his retina which caused permanent blindness in one eye. 134 Cal. App. 4th at 584–85, 595. Finally, in Colucci v. T-Mobile USA, Inc., the court upheld a $700,000 in emotional distress damages where the plaintiff experienced depression and "thought disorder," and "hadn't quite recovered, but [] was doing much better." 48 Cal. App. 5th at 450, 460. The plaintiff also testified that he had gained up to one hundred pounds after his wrongful termination, but had since lost "some" of that weight and still occasionally experienced stress and depression. Id. at 461.

In response, Lawson cites to Harper v. City of Los Angeles, in which the Ninth Circuit upheld a jury award of $5,000,001 for each police officer who was wrongfully convicted and prosecuted based on the unlawful actions of another former officer. 533 F.3d at 1014. The officers in this case testified about the adverse physical and emotional effects of media attention and the loss of reputation, as well as the adverse effects on their personal lives. Id. at 1028–29. Such adverse effects included high blood pressure and intestinal problems, paranoia, alcohol abuse, heartburn, anxiety attacks, and the inability to find similarly-paying work. Id. at 1029.

PPG attempts to distinguish Harper by arguing that, in that case, the Ninth Circuit upheld a damages award based on emotional harm and "impairment of reputation, personal humiliation, and mental anguish and suffering." Id. at 1029. (Reply at 5.) According to PPG, Lawson's "disappointment" bears no similarity to the plaintiffs in Harper. (Id.) At best, PPG claims that Lawson suffered "garden variety" emotional distress. (Id.)

The Court finds that Lawson's situation presents a unique set of facts which lies somewhere in between the plaintiffs' situations in Diaz and Harper. Although Lawson's circumstances are more similar to that of the plaintiff in Diaz, the Court is cautious in comparing these cases too closely given the subjective nature of emotional damages. See Bell, 108 F.4th at 832. For example, unlike the plaintiff in Diaz, Lawson had worked in the paint business for forty-one years, (April 22, 2025 Hr'g Tr. Vol. II, 84:20–21), and now works for Uber Eats because of his inability to find a new job, (id. at 75:1–5). Further, Belloso testified to the ongoing nature of Lawson's harm and that he is not the same as he used to be. (Id. at 70:18-71:13; 73:22-75:16.) Therefore, in relation to the $1,500,000 damages award in Diaz, Lawson's $2,000,000 damages award is not excessive. Additionally, because the testimony presented at trial is sufficient to support the $2,000,000 damages award, the court does not rely purely upon comparison in its analysis. See Bell, 108 F.4th at 832 (citing Harper, 533 F.3d 1010). Accordingly, Lawson has not presented a "garden variety" emotion distress claim, and the $2,000,000 emotional damages award is not excessive. Remittitur is not warranted.

IV. CONCLUSION

For the foregoing reasons, the Court **DENIES** the motion.

IT IS SO ORDERED.