IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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| GLORIA PALMA, | : | CIVIL ACTION |
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| v. | : | |
| | : | |
| VOLUNTEERS OF AMERICA, | : | |
| | : | NO. 04-919 |

MEMORANDUM AND ORDER

McLaughlin, J. February 9, 2006

Gloria Palma is suing her former employer, Volunteers of America Delaware Valley ("VOAD") as a result of her termination on February 11, 2003. Palma claims that VOAD discriminated against her based upon her age, sex, race and national origin. She brings claims for wrongful termination, retaliation and harassment under the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 et seq.; Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000 et seq.; 42 U.S.C. § 1981, et seq. ("§ 1981"); and the Pennsylvania Human Relations Act ("PHRA"), 43 Pa. Const. Stat. Ann. § 951 et seq. She also brings a state law claim for intentional infliction of emotional distress.

VOAD filed a motion for summary judgment on all of the plaintiff's claims. The Court held oral argument on the motion on July 21, 2005. The Court will grant the motion.

I. Facts

The facts in the light most favorable to Palma are as follows.[1] Palma began working as a Director of Residential Services with VOAD on December 2, 2002. VOAD is a non-profit organization that provides community-based assistance to needy children, the elderly, the homeless, and those with chronic mental health issues. Palma, a Mexican-American female, was fifty-three years old when she was hired. (Palma EEOC Aff.[2]).

Huston Johnson hired Palma for a ninety-day probationary status period. Johnson was Palma's direct supervisor, and was responsible for VOAD's division assisting clients with mental health issues. (Palma Dep. I at 74-75[3];

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[1]In deciding a motion for summary judgment, the Court must view the facts in the light most favorable to the non-moving party. Summary judgment is appropriate if all of the evidence demonstrates that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. Fed. R. Civ. Pro. 56(c). The moving party has the initial burden of demonstrating that no genuine issue of material fact exists. Once the moving party has satisfied this requirement, the non-moving party must present evidence that there is a genuine issue of material fact. The non-moving party may not simply rest on the pleadings, but must go beyond the pleadings in presenting evidence of a dispute of fact. Celotex Corp. v. Catrett, 477 U.S. 317, 323-24 (1986).

[2]This affidavit is attached to Palma's response to the motion as part of Exhibit A.

[3]Two depositions of Palma were taken. The first ("Palma Dep. I") is attached in part as Exhibit C to the defendant's motion and Exhibit A to the plaintiff's response. The second ("Palma Dep. II") is attached in part as Exhibit F to the defendant's motion.

Johnson Dep. at 9-11[4]).

According to Palma, Johnson expressed disinterest in her attempts to advance and excel on the job while showing interest in the accomplishments of African-Americans like himself. On one occasion, when Palma made a suggestion at a staff meeting, Johnson responded, "you don't have to re-invent the wheel." Johnson asked Palma to repeat herself, claiming that he did not understand her accent when she spoke. Palma claims that Johnson favored Donna Moore, a female African-American employee younger than Palma, allowing her access to a seminar to which he denied Palma access, and ignoring a confrontation that she had with another employee. (Palma EEOC Aff.).

Palma also complains of Johnson's physical conduct towards her. According to Palma, Johnson touched her on three occasions. Once, Johnson rubbed her arm between her shoulder and elbow. He left his hand there for less than a minute and said, "What's going on?" The second time, Palma and Johnson were at a diner near the office. He moved closer to her, took her hands, and said, "Gloria, give me time, don't just shoot me." Palma moved away. On another occasion, there was "some sort of touching" in the main office. Palma did not ask Johnson to stop touching her or complain to anyone about the incidents. (Palma Dep. I at 181-82, 185, 191, 197-98).

[4]Johnson's deposition is attached in part to VOAD's motion as Exhibit A.

Palma admits that she had multiple problems in her relationships with VOAD staff members. Palma was not able to establish a "good rapport" with Grace Gilbert, a fiscal clerk who was supposed to report to Palma. On one occasion, Gilbert commented to Palma that Mexican food was "horrible" and made fun of her accent. Another time, Gilbert remarked, "I know you, you're a Mexican, right, I know you." Gilbert also referred to Palma as an "old lady." Palma did not complain to anyone about these remarks. (Palma Dep. I at 144-45, 152, 171; Palma Dep. II at 179-80).

In a memorandum of December 23, 2003, Palma complained about Gilbert's work habits. She stated that Gilbert was a "disruptive influence" who did not follow the "chain of command." She made no mention of problems relating to her race or national origin. Johnson was concerned because there had been no prior indication that Gilbert was a problem. On January 25, 2004, Gilbert asked to be transferred so that she would not have to report to Palma. Gilbert described her interaction with Palma as follows: "I spend the majority of my time avoiding my present director, so that I won't upset her in any way. However, I cannot avoid her all day, because sometimes I must be upstairs to complete my work for that day." (Palma Dep. II at 148-152, 179-80; Johnson Dep. at 25-26, 34; Gilbert Letter to Johnson[5]).

[5]This letter is also attached to VOAD's motion as part of Exhibit A.

Palma also had a confrontation with a Program Manager, Cassandra Jenkins. Palma called Jenkins to her office and told her that she "was acting like a child and having a tantrum." Jenkins "did not appreciate" Palma's statement and found it "offensive." Jenkins felt that Palma was "talking down to her" and "disrespecting" her when they interacted. Palma also admits that she had a "run-in with JB Samuels where he was upset with [her]." Palma's management style caused conflict with the staff such that "generally every day . . . another person was upset because of their interactions with Ms. Palma." (Palma Dep. II at 179-80; Jenkins Dep. at 31, 34[6]; Halper Dep. at 29[7]).

Johnson terminated Palma on February 11, 2003, stating that she was not a "good fit." She was replaced by Jane Williams, a thirty-six-year old African-American woman. (Palma EEOC Aff.; Resp. at 8; Resp. Ex. K).

## II. Analysis

### A. Wrongful Termination and Retaliation Claims

The wrongful termination and retaliation claims under

[6]This deposition is attached in part to VOAD's motion as Exhibit D.

[7]This deposition is attached in part to VOAD's motion as Exhibit E.

the ADEA, Title VII, § 1981 and the PHRA require application of the burden-shifting framework that the Supreme Court articulated in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 (1973). First, the plaintiff must establish a prima facie case of discrimination. Id. If the plaintiff succeeds, the burden shifts to the defendant to articulate some legitimate, nondiscriminatory reason for the employee's rejection. Id. Finally, should the defendant carry this burden, the plaintiff then must have an opportunity to prove by a preponderance of the evidence that the legitimate reasons offered by the defendant were not its true reasons, but were a pretext for discrimination. Id.; Jones v. Sch. Dist. of Philadelphia, 198 F.3d 403, 410 (3d Cir. 1999).

1. Prima Facie Case

a. Wrongful Termination

Palma has alleged that she was wrongfully terminated because of her age in violation of the ADEA and the PHRA, her sex in violation of Title VII and the PHRA, and her race and national origin in violation of Title VII, § 1981, and the PHRA. To make out a prima facie case for wrongful termination under the McDonnell Douglas test, a plaintiff must show that (1) she was a member of a protected class, (2) she was discharged, (3) she was qualified for the job, and (4) she was replaced by someone

outside of the protected class or persons outside of the protected class were treated more favorably in a manner that gives rise to an inference of discrimination. Texas Dep't Cmty. Affairs v. Burdine, 450 U.S. 248, 254 n. 6 (1981); Goosby v. Johnson & Johnson Med., Inc., 228 F.3d 313, 318-19 (3d Cir. 2000); Jones, 198 F.3d at 410; Schurr v. Resorts Int'l Hotel, Inc., 196 F.3d 486, 499 (3d Cir. 1999); Simpson v. Kay Jewelers, 142 F.3d 639, 644 n. 5 (3d Cir. 1998).

(1) Protected Class

The ADEA and PHRA only protect persons over 40 years of age. Simpson, 142 F.3d at 644 n. 5. Palma can show that she was within this protected class, as she was fifty-three years old when she was hired by and terminated by VOAD. As a Mexican-American female, she can also show that she is a member of a protected class for purposes of her gender, race and national origin discrimination claims under Title VII, § 1981 and the PHRA. Burdine, 450 U.S. at 254 n. 6; Goosby, 228 F.3d at 318-19; Schurr, 196 F.3d at 499.

(2) Discharge

It is undisputed that Palma was discharged from her position with VOAD. Therefore, she can establish prong two of

her prima facie case for wrongful termination under the ADEA, Title VII, § 1981 and the PHRA.

(3) Qualified

Palma must show that she was qualified for her job; however, the standard for showings at the prima facie stage is "not onerous." Burdine, 450 U.S. at 253. Palma had many years of experience and a master's degree. (Palma EEOC Aff.). Thus, she was qualified for purposes of the prima facie test.

(4) Replaced by a Non-Member of the Protected Class; Non-Members Treated More Favorably

Palma must show that she was replaced by a non-member of the protected class, or that non-members of the protected class were favored in a manner that gives rise to an inference of discrimination.

With respect to age discrimination, Palma has shown that she was replaced by Williams, who was thirty-six years old. (Resp. Ex. K). Thus, Palma can satisfy prong four and make out a prima facie case of age-based wrongful termination under the ADEA and the PHRA.

For her sex discrimination claim, Palma must show that she was replaced by a male or that males were favored. However, Palma was replaced by a female. (Resp. Ex. K). In addition,

Palma alleges that other female employees, and not male employees, were favored. (Resp. at 3). Thus, she fails to satisfy prong four or make out a prima facie case of sex-based wrongful termination under Title VII or the PHRA.

Prong four of the test for Palma's race and national origin discrimination claims requires her to show that she was replaced by a non-Mexican-American, or that non-Mexican-Americans were favored by VOAD. Palma claims that Johnson, her supervisor and an African-American, favored African-Americans.[8] (Resp. at 8). She was replaced by an African-American. (Resp. at 8). Thus, she can satisfy prong four and make out a prima facie case of unlawful race and national origin-based wrongful termination under Title VII, § 1981, and the PHRA.

b. Retaliation

To make out a prima facie case of retaliation, Palma must establish that (1) she engaged in protected activity, (2) she was discharged subsequent to or contemporaneously with such activity, and (3) there is a causal link between the protected activity and the discharge. Woodson v. Scott Paper Co., 109 F.3d 913, 920 (3d Cir. 1997). The allocation of the burden of proof for the federal and state retaliation claims follows the familiar

[8]Palma's presentation of the affidavit of Gloria Washington, an African-American employee who claims that Johnson discriminated against her, weighs against her argument that Johnson favored African-American employees. (Resp. Ex. H).

McDonnell Douglas pattern. Id. at 919.

(1) Protected Activity

In the retaliation context, protected activity is an employee's opposition to employment practices that are unlawful under the anti-discrimination statutes. Barber v. CSX Distrib. Servs., 68 F.3d 694, 702 (3d Cir. 1995). This opposition can be formal or informal, and internal, as in a complaint to management, or external, as in a complaint to the EEOC. Id. In the context of sex discrimination, retaliation can involve a quid pro quo situation, where an employer retaliates against an employee who has rejected or objected to the employer's sexual advances. Burlington Indus., Inc. v. Ellerth, 524 U.S. 742, 751 (1998).

VOAD argues that Palma did not engage in any protected activity. In her first deposition, Palma claimed that she orally complained to Johnson about Gilbert's alleged comments to her. (Palma Dep. I at 160). Just before that, however, she had admitted that she did not complain to anyone, in human resources or otherwise, about these comments. (Palma Dep. I at 152-54, 156). In her second deposition, she confirmed that even when she complained to Johnson in writing about her problems with Gilbert, she did not mention race or national origin. (Palma Dep. II at 148-152).

There is no evidence that Palma was a victim of quid pro quo sexual harassment. In the first place, Palma admitted at her deposition that she does not know and has no reason to think that Johnson had a sexual interest in her. (Palma Dep. I at 188-89).[9] She cites no examples of sexual propositions or advances, or of threats if she did not succumb. Palma never told Johnson to stop touching her arm or hands, or that she felt uncomfortable. (Palma Dep. I at 185, 197). She did not report Johnson's touching of her arm or hands to anyone. (Palma Dep. I at 185-86, 197).

It is noteworthy that Palma was not afraid to report what she thought was inappropriate conduct to her superiors; she did so in reporting Gilbert's conduct. Yet she never made reference to discrimination in this or any other report before she was terminated. She cannot show that she engaged in protected activity.

(2) Timing of Discharge

Palma must show that she was discharged "subsequent to or contemporaneously with" a protected activity. Woodson, 109 F.3d at 920. Palma admits that she never complained about any

[9]She stated, "I don't think I have ever said that [Johnson] had or has a sexual interest in me . . . . I don't know that . . . . I cannot –- there's no way I can – I can know that . . . . That doesn't mean precisely in my mind that he was to -– wants -– or looking or wanted to go and have sexual relations with me." (Palma Dep. I at 188-89).

discrimination before she was terminated. (Palma Dep. I at 152-54, 156, 185, 197). She argues that she complained to Maureen Dobosz immediately after she was terminated. (Palma Resp. at 26). Post-termination complaints are irrelevant to a claim of retaliatory termination, which, by definition, occurs after or contemporaneously with protected activity.

(3) Causal Link

Timing and ongoing antagonism are the two main factors required for a finding of the causal link necessary for retaliation. Abramson v. William Paterson Coll., 260 F.3d 265, 288 (3d Cir. 2001). As mentioned above, there could have been no antagonism in retaliation for protected activity in this case because no protected activity occurred before Palma was terminated. Attempted reporting after a termination cannot be the cause of the termination. Palma fails to establish a prima facie case of retaliatory termination.

2. Legitimate Nondiscriminatory Reason

To satisfy its burden of asserting a legitimate, non-discriminatory reason for Palma's termination, VOAD argues that Johnson terminated Palma's employment because she was not a "good fit" for VOAD. Palma was a probationary employee when she was terminated. Johnson took into consideration Palma's conflicts

with multiple employees, including Ms. Gilbert, who had not had any prior employment problems. (Johnson Dep. at 25-26). Palma told another employee that she was acting like a child having a tantrum. (Jenkins Dep. at 31). She also had problems with two other VOAD employees. (Johnson Dep. at 44-45). It was legitimate and non-discriminatory for Johnson to consider multiple conflicts with other employees in this early stage of Palma's employment. Even if Palma could establish a prima facie case for all of her wrongful termination and retaliation claims, Johnson has articulated a legitimate and non-discriminatory reason for Palma's termination.

3. Pretext

To satisfy her burden of showing that VOAD's asserted legitimate, non-discriminatory reason was in fact a pretext for discrimination, Palma must proffer evidence from which a jury could reasonably either (1) disbelieve VOAD's articulated legitimate reasons; or (2) believe that an invidious discriminatory reason was more likely than not the motivating or determinative cause of VOAD's action. Kautz v. Met-Pro Corp., 412 F.3d 463, 465 (3d Cir. 2005)(citing Stanziale v. Jargowsky, 200 F.3d 101, 105 (3d Cir. 2000)). Palma must demonstrate such weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the proffered legitimate reasons for VOAD's

actions that a reasonable fact finder rationally could find them unworthy of credence. Kautz, 412 F.3d at 467.

"[A]n employer would be entitled to judgment as a matter of law if the record conclusively revealed some other, nondiscriminatory reason for the employer's decision, or if the plaintiff created only a weak issue of fact as to whether the employer's reason was untrue and there was abundant and uncontroverted independent evidence that no discrimnation occurred." Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 148 (2000).

As discussed above, when Johnson terminated Palma's employment, he had legitimate reasons for doing so. Other employees reported problems with Palma, and Johnson explained to Palma that she was being terminated because she was not a good fit. In addition, given the sparse evidence of any discriminatory animus, there is no reason to believe that Palma's termination was the result of unlawful discrimination.

Palma attempts to create issues of fact relating to pretext. She argues that Johnson fabricated stories about her closing down the office and making drastic changes, and that he is generally not credible. She notes that Moore, a coworker, and Williams, her replacement, were not terminated for problems that they had.

Johnson consistently stated that the main reasons for

Palma's termination were her "lack of interpersonal skills," "inability to build teams," and "communication style." (Resp. Ex. B). These reasons are consistent with Palma not being a "good fit." They are sufficient to justify her termination. Assertions about Johnson's credibility do not affect the Court's decision on VOAD's summary judgment motion.

Moore and Williams, Palma's alleged "comparators," were not similarly situated. Palma cites one incident for each of these employees. (Resp. at 20, 22-23). Palma, in contrast, admits to several continuing problems with multiple employees within a short period of time. The fact that she was terminated while they were not, then, does not establish pretext.

Facts indicating that a hirer and firer were the same person, and that the firing occurred relatively shortly after the hiring, have evidentiary value weighing against a finding of discrimination. Waldron v. SL Indus., Inc., 56 F.3d 491, 496 n. 6 (3d Cir. 1995). It is undisputed that although Johnson terminated Palma's employment, he was also the person who had hired her a few months earlier, knowing her age, sex, race and national origin. (Palma Dep. II at 48). Palma fails to establish that VOAD's asserted legitimate, non-discriminatory reason for her termination was pretextual. VOAD is entitled to summary judgment on Palma's wrongful termination and retaliation claims.

B. Harassment

To establish a prima facie case of age, sex, race and national origin-based harassment under the ADEA, Title VII, § 1981 and the PHRA, Palma must show that (1) she was harassed because of her protected trait, (2) the discrimination was subjectively and objectively detrimental and severe or pervasive, and (3) respondeat superior liability exists. Harris v. Forklift Sys., Inc., 510 U.S. 17, 21 (1993); Aman v. Cort Furniture Rental Corp., 85 F.3d 1074, 1081 (3d Cir. 1996).

1. Intentional Discrimination Because of Protected Trait

Under the first prong, a plaintiff must show that her protected characteristic was a "substantial factor" in harassment, and that but for that protected characteristic, "she would not have been treated in the same manner." Aman, 85 F.3d at 1083.

Palma describes only two instances that could relate to harassment because of her age. In the first, Gilbert called her an "old lady." This statement relates directly to age. Palma also claims that Johnson's statement that she did not "need to reinvent the wheel" was based upon her age. This statement does not relate to age.

As to sexual harassment, Palma mentions three incidents. First, she alleges that on one occasion, after she had called Johnson into her office, Johnson rubbed her arm for a few seconds, between her elbow and shoulders, and asked "so what's up?" (Palma Dep. I at 181-82). On another occasion, the two were at a diner near the office together to discuss a problem that Palma was having with an employee. (Palma Dep. I at 190-91). Palma alleges that Johnson rubbed his thumb on her forearm from across the table and asked her to give him some time to deal with the problem. (Palma Dep. I at 196). She makes another allegation of "some sort of touching" in the main office. (Palma Dep. I at 198). Given that there was no sexual conversation and no touching of anything other than arms, it is not clear that any of these actions took place because of Palma's sex.

Palma claims that she was subjected to race and national origin-based harassment based upon two comments that she alleges Gilbert made to her. First, Gilbert commented to Palma that Mexican food was "horrible" and made fun of her accent. This was in response to Palma's suggestion of ordering Mexican food for lunch. It may have been directed at Palma's race and national origin. Second, Gilbert remarked, "I know you, you're a Mexican, right, I know you." This comment was directed at Palma's race and national origin.

### 2. Subjectively and Objectively Detrimental and Severe or Pervasive

To be actionable, alleged harassment must be both subjectively and objectively detrimental and severe or pervasive. Harris, 510 U.S. at 21. This analysis is based upon the totality of the circumstances, including "the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance. Id. at 23. Title VII is not a "general civility code," and "simple teasing, offhand comments, and isolated incidents (unless extremely serious) will not amount to discriminatory changes in the terms and conditions of employment." Faragher v. City of Boca Raton, 524 U.S. 775, 788 (1998).

A grant of summary judgment based upon a lack of severity or pervasiveness is appropriate when alleged incidents of harassment are mild and isolated. See, e.g., Bacone v. Philadelphia Hous. Auth., 2003 U.S. Dist. LEXIS 8818 at *11; Bonora v. UGI Utils., Inc., 2000 U.S. Dist. LEXIS 15172 at *11 (E.D. Pa. Oct. 18, 2000); Bauder v. Wackenhut Corp., 2000 U.S. Dist. LEXIS 4044 at *11-*13 (E.D. Pa. Mar. 23, 2000).

None of the conduct that Palma describes rises to the level of subjectively and objectively detrimental or severe or

pervasive harassment. Palma mentions only mild, isolated incidents. One of the allegedly age-based comments, about "reinventing the wheel," is a common expression that does not relate to age, and the other is mildly offensive at worst.

In terms of sexual harassment, Palma only mentions that Johnson touched her arm while discussing work-related issues. He never touched sexual body parts or made sexual comments. There was no physically threatening conduct. Palma did not complain about the touching, and she admits that she did not know if Johnson had any sexual interest in her. (Palma Dep. I at 185, 197).

As to race and national origin, not liking Mexican food, noting that a person is Mexican, and having difficulty understanding an accent do not constitute harassment. These were mild, isolated comments, and involved no physical actions or threats. Palma alleges no conduct that is objectively and subjectively detrimental or severe or pervasive enough to constitute harassment.

3. Respondeat Superior

An employer is vicariously liable when a supervisor creates a hostile working environment for a subordinate. Ellerth, 524 U.S. at 765. If no tangible employment action was

taken, an employer can raise an affirmative defense to show (1) that it exercised reasonable care to prevent and promptly correct any sexually harassing behavior and (2) that the employee unreasonably failed to taken advantage of preventive or corrective opportunities provided by the employer. Id.

Here, a tangible employment action was taken, so the affirmative defense is not available to VOAD. Because the Court finds that no hostile working environment was created, however, VOAD cannot be vicariously liable. VOAD is entitled to summary judgment on Palma's harassment claims.

C. Intentional Infliction of Emotional Distress

Section 46 of the Restatement (Second) of Torts sets forth the minimum elements for a claim of intentional infliction of emotional distress. See Taylor v. Albert Einstein Med. Ctr., 562 Pa. 176, 181 (2000). According to section 46, "[o]ne who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to the other results from it, for such bodily harm." Id. at 180.

Under Pennsylvania law, "[t]he gravamen of the tort of intentional infliction of emotional distress is that the conduct complained of must be of an 'extreme and outrageous type.'" Cox

v. Keystone Carbon Co., 861 F.2d 390, 395 (3d Cir. 1988) (quoting Rinehimer v. Luzerne Cty. Cmty. Coll., 539 A.2d 1298, 1305 (Pa. Super. 1988)). The conduct must be so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized society. Id. at 395.

Application of the doctrine is "most limited" and "extremely rare" in the employment context. Hoy v. Angelone, 720 A.2d 745, 754-55 (Pa. 1998)(quoting Cox, 861 F.2d at 395). In Hoy, the court discussed the cases in which this doctrine had been applied. Id. They involved homicide, the failure to seek medical assistance, the burying of a body, the fabrication of records to implicate a plaintiff in homicide, and the false reporting to the media that a plaintiff had a fatal disease. Id. (discussing various Pennsylvania cases). In Hoy, the court found sexual harassment and a hostile work environment involving sexual propositions, physical contact, off-color jokes, the regular use of profanity, and the posting of a sexually suggestive picture. Id. at 754-55. Yet the court held that "[w]hile we are well aware that sexual harassment is highly offensive and unacceptable conduct," it did not constitute intentional infliction of emotional distress.

In Cox, the court held that the dismissal of an employee "with an improper motive and notwithstanding the

potential effects on" him did not "rise to the level of outrageousness which is required under Pennsylvania law." Cox, 861 F.2d at 396. The court noted that "while loss of employment is unfortunate and unquestionably causes hardship, often severe, it is a common event and cannot provide a basis for recovery for intentional infliction of emotional distress." Id. at 195 (internal quotations omitted).

The Court has concluded that Palma's termination was not based upon age, sex, race or national origin discrimination. The Court also finds that she was not subjected to retaliation or harassment based upon her protected traits. Even if she had suffered any of these wrongs, she would not be able to make out a claim under the very limited doctrine of intentional infliction of emotional distress, because none of the conduct about which she complains is outrageous under the doctrine's high standard. Therefore, VOAD's motion for summary judgment on this claim is granted.

An Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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| GLORIA PALMA | : | CIVIL ACTION |
| | : | |
| v. | : | |
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| VOLUNTEERS OF AMERICA | : | NO. 04-919 |

ORDER

AND NOW, this 9th day of February, 2006, upon consideration of the defendant's Motion for Summary Judgment (Docket No. 38), the plaintiff's opposition, the defendant's reply, and after oral argument held on July 21, 2005, IT IS HEREBY ORDERED that the motion is GRANTED for the reasons set forth in a memorandum of today's date. Judgment is hereby entered for the defendant and against the plaintiff. This case is closed.

BY THE COURT:

/s/ Mary A. McLaughlin
MARY A. McLAUGHLIN, J.