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

EVELYNE BEAUBRUN,	:	**CIVIL ACTION**
	:	
Plaintiff,	:	**NO. 05-06688**
	:	
v.	:	
	:	
INTER CULTURAL FAMILY, et al.	:	
	:	
Defendants.	:	

MEMORANDUM AND ORDER

Stengel, J. **January 17, 2007**

In this employment discrimination action, Evelyne Beaubrun ("Plaintiff") alleges that her former employer, Intercultural Family Services, Inc. ("Intercultural"), her supervisor Jacqueline Reed ("Reed"), and Deputy Executive Director Myra Brown ("Brown") (collectively "Defendants"), unlawfully discriminated against her based on her national origin in violation of federal and state law. Presently before the Court is Defendants' partial motion for summary judgment. For the reasons discussed below, Defendants' motion is denied.

I. BACKGROUND[1]

Plaintiff is a native of Port-au-Prince Haiti who moved to the United States fifteen years ago. Defs' Statement Undisputed Facts ¶¶ 4, 5. She is now a citizen of the United

[1] The vast majority of these allegations are taken from Plaintiff's deposition. During this testimony, Plaintiff did not indicate when many of these events and conversations took place. Plaintiff's responsive memorandum is similarly vague. I have noted whenever Plaintiff provided a specific date or general time-frame. For the purposes of this motion, all inferences must be made in favor of Plaintiff as the non-moving party.

States. Evelyne Beaubrun Dep. p. 7. Plaintiff received an associate's degree in general studies from the Community College of Philadelphia and a bachelor's degree in social work from Temple University. Id. p. 8. She is not a licensed social worker. Id. p. 9.

Intercultural is an independent, nonprofit human services agency that assists immigrants and refugees in the Greater Philadelphia area by providing community-based health and social services. Defs' Statement Undisputed Facts ¶ 1. Intercultural is the only agency in Philadelphia that services a multi-ethnic community in at least twenty-one languages. Id. ¶¶ 2, 3. Intercultural's mission is "to stabilize, strengthen, and unite families and diverse communities using public and private partnerships" through culturally competent services. Pl's Mem. Ex. D. p. 2.

In September 2000, Intercultural hired Plaintiff as a SCOH social worker and interpreter. Defs' Statement Undisputed Facts ¶ 7. From the day she started to work at the agency, Plaintiff performed her duties in "an efficient and professional manner." Beaubrun Dep. p. 27; see also Pl's Mem. Ex. E. At some point during her employment with Intercultural,[2] Plaintiff moved into a position as a parent educator assistant for the Parenting Program under the supervision of Defendant Jacquelyn Reed. Defs' Statement Undisputed Facts ¶ 8.

In March 2002, Plaintiff left the Parenting Program and returned to her former position as a SCOH social worker. Id. ¶ 9. Defendants allege that this was due to a

[2] The record does not identify the date of this change in Plaintiff's position.

"personality conflict" with Reed, Plaintiff's supervisor. Id. Plaintiff sharply contests this characterization. Plaintiff alleges that she developed good relationships with her clients, while Reed was away from work on a family emergency, and that Reed "started getting jealous of my relationship with the clients" and met secretly with Brown and Denise Cutrone, the homebased director. Beaubrun Dep. pp. 34-39. Brown and Reed recommended to CEO Evelyn Marcha-Hidalgo that Plaintiff be removed from the program because she did not get along with Reed. Id. p. 39. Defendants did not terminate Plaintiff's employment but reassigned her to the SCOH social worker position. Id. p. 41.

On October 31, 2003, Marcha-Hidalgo promoted Plaintiff to Coordinator of the Healthy Start Program, effective November 3, 2003. Evelyn March-Hidalgo Dep. pp. 59-60; Pl's Mem. Ex. F. Prior to Plaintiff's promotion, several other non-Haitian employees (Dorothy Stewart, Nereida Crispin, Sarah Krecke) with fewer qualifications than Plaintiff were promoted before her. Beaubrun Dep. pp. 139-150. Plaintiff's promotion placed her under Reed's supervision. Defs' Statement Undisputed Facts ¶ 10.

Starting with this promotion, high-level managerial employees,[3] including Reed,

[3] Defendants Reed and Brown are African American. The vast majority of Plaintiff's allegations focus on Reed's behavior. Plaintiff alleges that Brown did nothing to stop Reed's use of derogatory slurs against Haitians and refused to discipline her. Beaubrun Dep. pp. 82-83, 194-95. Plaintiff's indictment of Denise Cutrone appears to be limited to Cutrone's disparaging remarks about Haitian immigrants who were Plaintiff's clients. Cutrone complained that Haitian immigrants come to the United States and do not work or pay taxes and "get everything for granted." Id. p. 120. According to Plaintiff, Intercultural also under-serviced Haitian clients. Id. p. 106. Plaintiff alleges that the behavior of those managerial employees sent a "message" to Plaintiff that she was not welcomed in the workplace

Brown, and Cutrone, discriminated and harassed Plaintiff. Reed "started a pattern of discrimination [against Plaintiff], refused to do what she was requested to do by the CEO...to supervise me, sign my time sheet...on a regular basis, to meet with me about the program needs." Beaubrun Dep. p. 80. Reed undermined Plaintiff's supervisory authority in front of Brown and the employees Plaintiff supervised by saying that Plaintiff did not know what she was doing. Id. p. 83. Defendants subjected Plaintiff to an unfavorable work schedule and higher caseload than her non-Haitian peers who were similarly situated. Id. pp. 121-24.[4]

Plaintiff testified that Reed was constantly "talking down about" her because she was older than Plaintiff and had no respect for her and treated her like she was "nobody." Id. p. 77. Reed yelled and screamed at Plaintiff at a supervisory meeting that Brown also attended. Id. p. 258. Plaintiff also accuses Reed of "making her feel so little" at external meetings in the community with other professionals and that Reed would talk to Plaintiff like she was "a little maid." Id. pp. 259-60. Reed also required Plaintiff to perform menial tasks on her behalf, such as getting her lunch. Id. pp. 181-82.

Plaintiff testified that Reed slandered her by making belittling references to Plaintiff and her Haitian nationality. When Reed heard about Plaintiff's promotion, Plaintiff states that Reed "snapped" and in front of Plaintiff's peers, questioned why the

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because of her Haitian nationality.

[4] It is unclear from Plaintiff's deposition what position she held when she experienced this unfavorable treatment; however, this allegation is instructive as to the overall hostility Plaintiff allegedly faced in the workplace based on her national origin.

CEO would "choose this little Haitian girl who does not know anything, to put her in charge of the workers downstairs." Id. pp. 93-94. Reed allegedly referring to Plaintiff as "that little Haitian girl down there in the Healthy Start" in front of two other supervisors. Id. p. 82. Reed told Laura Reed, Plaintiff's former supervisor, and Ora Deloatch, Plaintiff's immediate supervisor, both of whom had high professional regard for Plaintiff, "that little Haitian girl, she needs to go, because she doesn't know anything down there" to try and "bring down" their opinion of Plaintiff. Id. pp. 94-98.[5] Some of the workers Plaintiff supervised followed Reed's example and started calling her "little Haitian girl." Id. p. 98. Because of Reed's belittling of Plaintiff's national origin, Plaintiff's supervisory employees became non-responsive to her directions.

Reed and Brown plotted in private meetings to recommend that CEO Marcha-Hidalgo fire her. Id. pp. 194-95. Reed's documentation of concerns about Plaintiff's performance was a factor in the decision to terminate Plaintiff. Myra Brown Dep. pp. 35-36. Plaintiff believes that this decision, was based in part, by false rumors made by unidentified individuals that Plaintiff had left the building without anyone's permission on January 9, 2004. Beaubrun Dep. pp. 152-57. In fact, Plaintiff had left the building to deliver work-related reports and had properly notified her supervisor's assistants of her whereabouts, since she supervisors were absent when she left the office. Id. pp. 154-161. Plaintiff contends that non-Haitian personnel who committed fireable offenses were not

[5] The timing of this comment is not at all clear, although Plaintiff places great reliance on the phrase "needs to go" to argue that Defendants' decision to terminate Plaintiff was because of national origin discrimination.

disciplined or terminated. Id. pp. 123-131, 148-49, 153-54, 161-76.

On December 15, 2004, Brown sent a memo to Marcha-Hidalgo notifying her that effective immediately, Brown would supervise Plaintiff due to Plaintiff's negative interactions with her current supervisor, Reed. Brown Dep. Ex. B-1. Brown did not consider this a disciplinary action. Brown Dep. pp. 65-66.

On January 30, 2004, Brown, Reed, and Marcha-Hidalgo met with Plaintiff to notify her that her employment was being terminated. Defs' Statement Undisputed Facts ¶ 15; Beaubrun Dep. pp. 243-44, 251. Plaintiff's termination was in violation of Intercultural's own procedures because Intercultural did not evaluate Plaintiff within 45 to 75 days of Plaintiff's tenure within this new position to identify performance issues and assist Plaintiff in resolving them. Pls' Mem. Ex. D. Section 0902 "Supervisor Responsibility During Probationary Period" pp. 11-12. Plaintiff did not receive feedback on her performance before she was terminated. Beaubrun Dep. pp.188-92. Defendants did not use progressive discipline and periodic performance evaluations to address Plaintiff's work deficiencies prior to firing her. Brown Dep. pp. 96-100.

At Plaintiff's request, Defendants permitted Plaintiff to resign from the position instead of being terminated. Beaubrun Dep. pp. 243-44. Brown suggested to Plaintiff that it might be possible to reinstate her to another position within the organization and told Plaintiff to come back to work on Monday, February 2, 2004. Id. pp. 246-49; Pl's Mem. Ex. K. When Plaintiff called Brown to speak with her on February 2, Brown told

her that she had spoken with Evelyn Hidalgo and that since it was not possible to reinstate her, Plaintiff should go forward with her resignation. Beaubrun Dep. pp. 246-49. Plaintiff wrote two resignation letters[6] and submitted them on February 3, 2004. Id. Plaintiff would have been terminated if she had not resigned. Brown Dep. p. 89.

Plaintiff filed a timely complaint with both the Pennsylvania Human Relations Commission (the "PHRC") and the Equal Employment Opportunity Commission (the "EEOC"). Beaubrun Dep. pp. 23-24. After receiving a right to sue letter from the PHRC, Plaintiff filed the current action on December 22, 2005. The complaint alleges violations of: (1) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq*. ("Title VII"); (2) 42 U.S.C. § 1981 ("section 1981"); and (3) the Pennsylvania Human Relations Act, 43 PA. CONS. STAT. §§ 951–963 (the "PHRA"). On July 13, 2006, the Court granted in part Defendants' motion to dismiss. See Beaubrun v. InterCultural Family, No. 05-06688, 2006 U.S. Dist. LEXIS 47973 (E.D. Pa. July 13, 2006). The Court dismissed the Title VII claims against the Individual Defendants and all Section 1981 claims. Defendants now move for summary judgment on Plaintiff's hostile work environment claim under Title VII (Count 4) and her constructive discharge claim under Title VII (Count 6). Defendants do not seek summary judgment on Plaintiff's disparate treatment under Title VII (Count 1) or the PHRA (Count 3).

II. STANDARD OF REVIEW

[6] Plaintiff's resignation letters are not part of the record.

Summary judgment is appropriate when "there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." FED. R. CIV. P. 56(c). The moving party initially bears the burden of showing the absence of a genuine issue of material fact. See Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Where the non-moving party bears the burden of proof on a particular issue at trial, the moving party's initial Celotex burden can be met simply by demonstrating "to the district court that there is an absence of evidence to support the non-moving party's case." Id. at 325. A fact is "material" only when it could affect the result of the lawsuit under the applicable law, see Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986), and a genuine issue of material fact exists when "the evidence is such that a reasonable jury could return a verdict for the non[-]moving party." Id. The moving party must establish that there is no triable issue of fact as to all of the elements of any issue on which the moving party bears the burden of proof at trial. See In re Bessman, 327 F.3d 229, 237-38 (3d Cir. 2003) (citations omitted).

After the moving party has met its initial burden, "the adverse party's response, by affidavits or otherwise as provided in this rule, must set forth specific facts showing that there is a genuine issue for trial." FED. R. CIV. P. 56(e); see also Williams v. West Chester, 891 F.2d 458, 464 (3d Cir. 1989). A motion for summary judgment looks beyond the pleadings and factual specificity is required of the party opposing the motion. Celotex, 477 U.S. at 322-23. In other words, the non-moving party may not merely

restate allegations made in its pleadings or rely upon "self-serving conclusions, unsupported by specific facts in the record." Id. Rather, the non-moving party must support each essential element of its claim with specific evidence from the record. See id.

A district court analyzing a motion for summary judgment "must view the facts in the light most favorable to the non-moving party" and make every reasonable inference in favor of that party. Hugh v. Butler County Family YMCA, 418 F.3d 265, 267 (3d Cir. 2005) (citations omitted). Summary judgment is therefore appropriate when the court determines that there is no genuine issue of material fact after viewing all reasonable inferences in favor of the non-moving party. See Celotex, 477 U.S. at 322.

III. DISCUSSION

A. Plaintiff's Title VII hostile work environment claim

A plaintiff bringing a Title VII hostile work environment claim based upon national origin must allege that: "(1) [s]he suffered intentional discrimination because of [her] national origin; (2) the discrimination was pervasive and regular;[7] (3) it detrimentally affected [her]; (4) it would have detrimentally affected a reasonable person of the same protected class in [her] position; and (5) there is a basis for vicarious

[7] In Jensen v. Potter, 435 F.3d 444, 449 n.3 (3d Cir. 2006), the Third Circuit stated that although "[w]e have often stated that discriminatory harassment must be 'pervasive and regular,'" "severe or pervasive" is the controlling Supreme Court standard. Therefore, this Court adopts the "severe or pervasive" standard for the second prong of this analysis.

liability." Cardenas v. Massey, 269 F.3d 251, 260 (3d Cir. 2001) (citing Meritor Sav. Bank, FSB v. Vinson, 477 U.S. 57, 65–68 (1986)). Courts analyzing a hostile work environment claim examine "all the circumstances . . . [including] [1] the frequency of the discriminatory conduct; [2] its severity; [3] whether it is physically threatening or humiliating, or a mere offensive utterance; and [4] whether it unreasonably interferes with an employee's work performance." Harris v. Forklift Sys., Inc., 510 U.S. 17, 23 (1993); see also Aman v. Cort Furniture Rental Corp., 85 F.3d 1074, 1080 n.3 (3d Cir 1996). The Third Circuit has cautioned that a court's hostile work environment analysis "must concentrate not on individual incidents, but on the overall scenario" because it is often difficult to determine the motivation behind allegedly discriminatory actions. Durham Life Ins. Co. v. Evans, 166 F.3d 139, 149 (3d Cir. 1999).

In reversing a district court's granting of summary judgment for an employer on a plaintiff's hostile work environment claim, the Third Circuit instructed that "[t]he proper inquiry at this stage [is] whether a reasonable factfinder could view the evidence as showing that [plaintiff's] treatment was attributable to [a protected trait, e.g. national origin]." Abramson v. William Paterson College of New Jersey, 260 F.3d 265, 277 (3d Cir. 2001); see also Aman v. Cort Furniture Rental Corp., 85 F.3d 1074, 1082 (3d Cir 1996) (plaintiff must produce "sufficient evidence so that a reasonable jury could conclude that the working environment...was pervaded by discriminatory intimidation, ridicule, and insult") (citations omitted). According to the Third Circuit, changing

employment discrimination tactics dictate this result:

> Discrimination continues to pollute the social and economic mainstream of American life, and is often simply masked in more subtle forms. It has become easier to coat various forms of discrimination with the appearance of propriety, or to ascribe some other less odious intention to what is in reality discriminatory behavior. In other words, while discriminatory conduct persists, violators have learned not to leave the proverbial "smoking gun" behind....The sophisticated would-be violator has made our job a little more difficult. Courts today must be increasingly vigilant in their efforts to ensure that prohibited discrimination is not approved under the auspices of legitimate conduct, and a plaintiff's ability to prove discrimination indirectly, circumstantially, must not be crippled. Aman, 85 F.3d at 1081-82 (citations omitted).

For this reason, a plaintiff's claim will survive summary judgment if the plaintiff "presents sufficient evidence to give rise to an inference of discrimination by offering proof that her workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment" and the conduct is based on one of the categories protected under Title VII." Abramson, 260 F.3d at 279 *citing* Harris v. Forklift Sys., Inc. 510 U.S. 17, 21 (1993). Plaintiff has presented sufficient evidence from which a jury could infer that she was subjected to discrimination that created an abusive work environment due to her national origin.

As the first element of her *prima facie* case, Plaintiff must show that the complained about behavior is based on her national origin. Abramson, 260 F.3d at 278. This standard does not require Plaintiff to produce direct evidence that the conduct is linked to a discriminatory animus. Id. at 277-78. Instead, this must be judged by the

totality of the circumstances. In evaluating these claims, courts have considered discriminatory remarks and differential treatment of employees outside of Plaintiff's protected class. Aman, 85 F.3d at 1082.

Plaintiff meets this burden by alleging that her supervisor and supervisory employees made derogatory remarks about her national origin.[8] Plaintiff contends that Reed, her direct supervisor, questioned why "this little Haitian girl" was promoted into the Healthy Start Coordinator position. Reed also allegedly referred to Plaintiff as "that little Haitian girl who needs to go because she doesn't know anything." The employees Plaintiff supervised also started following Reed's example by calling Plaintiff "little Haitian girl" and becoming non-responsive to Plaintiff's directives. In light of these remarks, a jury could infer that Reed's treatment of Plaintiff (yelling at and talking down to Plaintiff, requiring her to perform menial tasks, refusing to supervisor her by performing evaluations and signing off on forms, and excluding Plaintiff from meetings) was based on discriminatory animus.

Plaintiff also alleges differential treatment of non-Haitian staff members, who

[8] These allegations distinguish this case from other hostile work environment cases where courts found summary judgment appropriate. Krizman v. AAA Mid-Atlantic, Inc., No. 06-402, 2006 U.S. Dist. LEXIS 74647 (E.D. Pa. Oct. 12, 2006) (granting defendant's motion for summary judgment on Haitian plaintiff's national origin hostile work environment claim because plaintiff could not point to any remarks about her national origin in the work place); Shahin v. College Miscericordia,No. 03-0925 2006 U.S. Dist. LEXIS 65272 (M.D. Pa. Sept. 13, 2006) (granting defendant's motion for summary judgment because there was no evidence that plaintiff's employer acted on the basis of his national origin or made remarks about national origin in the workplace); Onuchukwu v. St. Peter's Univ. Hosp., No. 05-966, 2006 U.S. Dist. LEXIS 61201 (D.N.J. Aug. 28, 2006) (granting summary judgment for the defendant on plaintiff's national origin because there was no evidence of racial slurs but only general remarks such as "where did you come from."); Shramban v. Aetna, 262 F. Supp. 2d 531 (E.D. Pa. 2003) (granting summary judgment for the defendant because personal comments about plaintiff's accent and "Moldovian way" were insufficient to show intentional discrimination, even if they were in poor taste).

committed fireable offenses and were not disciplined. Defendants also required Plaintiff to work a larger caseload than non-Haitian employees. Plaintiff avers that Defendants did not follow proper protocol in evaluating her performance in the Coordinator position or in moving to terminate her employment. Using a totality of the evidence approach, a jury could conclude based on this evidence that Plaintiff suffered intentional discrimination because of her national origin.

To establish the second element of her *prima facie* case, Plaintiff must show that the workplace was "permeated with discriminatory intimidation, ridicule, and insult that is sufficiently sever or pervasive to alter the conditions of the victim's employment and create an abusive working environment." Harris, 510 U.S. at 21. In contrast, "the mere utterance of an [ethnic or racial] epithet which engenders offensive feelings in an employee does not sufficiently affect the conditions of employment that implicate Title VII." Id. Harris puts forth a disjunctive test requiring that the conduct be severe or pervasive. When evaluating whether conduct is pervasive, courts "should not consider each incident of harassment in isolation...[but] evaluate the sum total of abuse over time."

Defendants selectively pick through the record to argue that Plaintiff fails to meet this standard because she complains about a few isolated incidents that cannot be "construed as having national origin content." Defs' Mot. Summ. J. p. 8.[9] Plaintiff

[9] Defendants also analogize to Waite v. Blair, Inc., 937 F. Supp. 460 (W.D. Pa. 1995). In Waite, a Korean Plaintiff relied on three pieces of evidence in support of her national origin hostile environment claim: (1) her supervisor's remark that Central America was a better place to visit than Korea; (2) a co-workers statement that the American middle class was threatened by people from other countries; and (3) co-worker comments regarding

alleges that Reed, her direct supervisor in the Healthy Start coordinator position, called her "little Haitian girl" on numerous occasion, linked to comments that she was incompetent and "had to go." Plaintiff also alleges that the employees she supervised followed Reed's example and started calling her "little Haitian girl" and refused to listen to her directives. Denise Cuttrone, another employee, allegedly made disparaging comments about Haitian immigrants in the United States. Looking at these individual events as a whole, and not in isolation, a jury could conclude that the discrimination Plaintiff faced was pervasive. Petrocelli v. Daimler-Chrysler Corp., No. 04-943, 2006 U.S. Dist. LEXIS 11972 at *13-15 (D. Del. Mar. 22, 2006) (finding that name-calling and pictures depicting plaintiff's national origin in the workplace were pervasive when viewed as a whole instead of as individual incidents).

Defendants do not contest the third or fourth element of Plaintiff's *prima facie* case: that the discrimination detrimentally affected her and would have detrimentally affected a reasonable person of the same protected class. 269 F.3d at 260. Plaintiffs' deposition shows that she was determinably affected by the work environment and Reed's conduct in particular. Further, there is adequate evidence in the record from which a jury could conclude that a reasonable Haitian person would have been affected in the same way by the alleged discrimination.

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plaintiff's inability to speak English after living in America for twenty-eight years. While these remarks are the kind of stray and inconsequential remarks that do not implicate Title VII, they are not analogous to the remarks allegedly made by Plaintiff's direct supervisor linking Plaintiff's nationality to her incompetency and concluding she "had to go."

Defendants do not argue that there is no basis for vicarious liability, the fifth prong of a *prima facie* case of a hostile work environment claim. 269 F.3d at 260. The Court has held that an employer is vicariously liable to a plaintiff for a hostile environment created by a supervisor with immediate authority over the plaintiff that results in a tangible employment action such as discharge, demotion, or undesirable reassignment. Faragher v. City of Boca Raton, 524 U.S. 775, 807 (1998). This Court cannot conclude that there is no basis for *respondeat superior* liability as a matter of law.[10]

B. Plaintiff's Title VII constructive discharge claim

In evaluating the sufficiency of a constructive discharge claim, courts in the Third Circuit apply an objective test and determine "whether a reasonable jury could find that the [employer] permitted conditions so unpleasant or difficult that a reasonable person would have felt compelled to resign." Duffy v. Paper Magic Group, Inc., 265 F.3d 163, 167 (3d Cir. 2001) (citation omitted). Additionally, "[t]here must be at least some relation between the occurrence of the discriminatory conduct and the employee's resignation" McWilliams v. Western Pennsylvania Hosp., 717 F. Supp. 351, 355-56

[10] Even though Defendant did not fire Plaintiff, it is still possible for Plaintiff to prove vicarious liability. If an employer does not take a tangible employment action against the plaintiff, the employer has an affirmative defense if it can prove two elements: (1) it exercised reasonable care to prevent and promptly correct harassing behavior and (2) the employee unreasonably failed to take advantage of preventive or corrective opportunities provided by the employer. Burlington Indus. v. Ellerth, 523 U.S. 742, 751 (1998). However, an employer cannot use the Ellerth affirmative defense if a plaintiff proves a constructive discharge that was precipitated by a supervisor's official act. Pennsylvania State Police v. Suders, 542 U.S. 129 (2004). Plaintiff's constructive discharge claim also survives summary judgment and therefore, Plaintiff may be able to prove vicarious liability. See Section III. B. *infra*.

(W.D. Pa. 1989) (finding that plaintiff could not show causation because the incidents she complained about occurred three years before she resigned). The following factors, while not required, are common to constructive discharge claims: being encouraged to resign or threatened with actual discharge, a reduction in pay or benefits, involuntary transfer to a less desirable position, alteration of job responsibilities, unsatisfactory job evaluations. Clowes v. Allegheny Valley Hosp., 991 F.2d 1159, 1161 (3d Cir. 1993).

Once again, Defendants argue that Plaintiff's claim must fail because it is based on isolated incidents of Reed calling Plaintiff "little Haitian girl." As discussed *supra* in Section III. A, Plaintiff's constructive discharge claim reaches beyond Reed's belittling of Plaintiff's national origin to include: differential treatment and discipline of non-Haitian employees; false reports of misconduct and poor performance; undermining Plaintiff's authority in front of her co-workers and the employees she supervised; Defendants' failure to follow their own internal human resource policies in failing to evaluate Plaintiff and deciding to terminate her employment; and ultimately threatening to terminate Plaintiff. A reasonable jury could conclude that Defendants were aware of and permitted the discriminatory conditions Plaintiff faced and that these conditions were so unpleasant or difficult that a reasonable person in Plaintiff's position would have felt compelled to resign.

Defendants also argue that Plaintiff resigned to avoid being terminated and not because of alleged discrimination. Defendants support this argument with Plaintiff's

admission that she loved her job and would have been more than willing to go back to another position. Beaubrun Dep. p. 246. This statement is consistent with Plaintiff's allegation that the bulk of her problems occurred while Reed was her supervisor. This statement alone is an insufficient basis for granting summary judgment to the Defendants. Instead, the Court will permit the jury to weigh the disputed factual evidence and determine whether Defendants constructively discharged Plaintiff.

IV. CONCLUSION

For the reasons stated above, I will deny Defendants' motion. An appropriate Order follows.

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

EVELYNE BEAUBRUN,	**:**	**CIVIL ACTION**
Plaintiff,	**:**	**NO. 05-06688**
	:	
v.	**:**	
	:	
INTER CULTURAL FAMILY, et al.	**:**	
Defendants.	**:**	

ORDER

AND NOW, this 17th day of January, 2007, upon consideration of Defendants' Partial Motion for Summary Judgment (Document No. 13) and Plaintiff's response thereto, it is hereby **ORDERED** that the motion is **DENIED**.

BY THE COURT:

/s/ Lawrence F. Stengel
LAWRENCE F. STENGEL, J.