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

DIANA REGAN, Ph.D., : CIVIL ACTION

Plaintiff, : No. 04-2526

EXCELLERX, INC., :

Defendant. :

MEMORANDUM

ROBERT F. KELLY, S.J.

v.

MARCH 22, 2005

Presently before this Court is the Defendant's Motion for Summary Judgment. As the Motion will be denied due to the presence of significant issues of fact meriting trial, I write solely for the benefit of the parties to lay out some of those issues.

At the heart of the present matter lies the meeting at which Defendant terminated Plaintiff's employment. It was at that meeting where Plaintiff was informed that Dr. Knowlton had decided to terminate Plaintiff's employment: (1) because she did not have "our blood," (2) because of the way she looked, (3) because of the way she spoke, (4) because she did not fit the company mold, and (5) because Dr. Knowlton felt Plaintiff would be unable to change any of these things, that it was her fingerprint.

Plaintiff argues that these statements, made directly to Plaintiff in the course of a meeting informing her of an employment decision, present sufficient evidence from which a jury could conclude that "the decisionmaker placed substantial negative reliance upon an illegitimate criterion in reaching the decision." <u>Connors v. Chrysler Fin. Corp.</u>, 160 F.3d 971, 975 (3d Cir.

1998) (quoting <u>Price Waterhouse v. Hopkins</u>, 490 U.S. 228, 277 (1989) (O'Connor, J. concurring)). At this stage, I am unable to disagree. The statements raise the inference that Dr. Knowlton's unilateral decision to terminate Plaintiff's employment was undertaken due to her national origin.

Similarly, when the timing of Plaintiff's termination is considered, it is possible for Plaintiff to cast serious doubt upon Defendant's alternative reasons for abruptly ending Plaintiff's employment. While Plaintiff was not necessarily a model employee, her immediate supervisors had expressed an interest in working with her to improve her performance problems. Yet, immediately after Dr. Knowlton's first significant exposure to Plaintiff, she was discharged. As a result, it appears that Plaintiff may have sufficient evidence to overcome Defendant's explanations.

As I have concluded that Plaintiff has presented sufficient evidence creating a material issue of fact worthy of trial, the Motion for Summary Judgment will be denied.

An appropriate Order follows.

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EXCELLERX, INC.,	:	
Defendant.	: :	

ORDER

AND NOW, this 22nd day of March, 2005, upon consideration of the Defendant's Motion for Summary Judgment (Doc. No. 13), the Response in opposition, and the Reply thereto, it is hereby **ORDERED** that the Motion is **DENIED**.

BY THE COURT:

/s/Robert F. Kelly
ROBERT F. KELLY
Sr. J.