IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

KAREN CURRIE,	:	
	:	C.A. NO: 09C-06-059(RBY)
Plaintiff,	:	
	:	
v.	:	
	:	
DENTSPLY INTERNATIONAL,	:	
INC., t/a I.D. Caulk and/or	:	
L.D. Caulk Dentsply,	:	
a Delaware corporation,	:	
	:	
Defendant.	:	

Submitted: December 17, 2010
Decided: January 4, 2011

Upon Consideration of
Defendant's Motion for Summary Judgment
GRANTED

OPINION AND ORDER

William D. Fletcher, Jr., Esq., Noel E. Primos, Esq., and B. Brian Brittingham, Esq., Schmittinger & Rodriguez, P.A., Dover, Delaware for Plaintiff.

Matthew F. Boyer, Esq., and Timothy M. Holly, Esq., Connolly, Bove, Lodge & Hutz, LLP, Wilmington, Delaware for Defendant.

Young, J.

SUMMARY

The plaintiff, Karen J. Currie, was an employee of Dentsply International Inc. ("Dentsply") for 24 years prior to her involuntary dismissal on November 21, 2008. Dentsply effected Currie's termination in two phases. First, Dentsply eliminated Currie's position as part of a reduction in workforce initiative (the "RIF"). Second, Dentsply created a new position combining Currie's former responsibilities as a quality control department leader with those of a quality control engineer named Juan Salazar, whose position had also been eliminated in the RIF. Dentsply then offered the newly reconstituted position to the younger male, Salazar, instead of Currie. In response, Currie filed a complaint with this Court alleging that the circumstances surrounding her termination were predicated upon Dentsply's impermissible age and sex discrimination.

Dentsply claims that Currie was terminated based on a number of legitimate, nondiscriminatory factors. First, due to economic concerns, Dentsply was forced to conduct the RIF. Second, after assessing Currie's recent performance reviews, Dentsply determined that Currie's position should be included in the RIF. Third, Dentsply compared the credentials of both Salazar and Currie for the new position, and determined that Salazar was more qualified for the job.

After discovery closed, Dentsply filed the instant motion for summary judgment, asserting that it had articulated legitimate, nondiscriminatory reasons for Currie's termination and that Currie could not show that its reasons were pretextual. For the reasons set forth below, it is clear that Currie has failed to sustain the burden shifted to it to show by a preponderance of the evidence that Dentsply's proffered reasons for its employment decision were merely a pretext for hidden discriminatory animus. Accordingly, Dentsply's Motion for Summary Judgment is **GRANTED**.

FACTS

1. *The Parties*

Dentsply, a manufacturer of dental products, operates facilities in the Milford, Delaware area. Dentsply's Milford facilities are commonly referred to as its "Caulk Division", and are housed in two physical locations: Lakeview and West Milford.

Dentsply hired Currie into the Caulk Division in 1986, and assigned her to the West Milford plant. Originally employed as a lab technician, Currie advanced to Quality Control Department Leader over her 24 years of full-time employment at Dentsply, and held that position until her November 21, 2008 termination.

2. *Currie's Recent Performance Issues*

A. Currie's 2006 Reviews.

Both parties agree that Currie's performance ratings were satisfactory until the end of 2006. That August, Currie's immediate supervisor, Vincent Simpatico, placed her on a Performance Improvement Plan ("PIP").[1] Currie viewed the PIP as a departure from Dentsply's customary practice, and, upon receiving it, voiced her displeasure to Simpatico. Nevertheless, Currie substantially completed the plan, and it was closed on January 12, 2007.[2]

By November, 2006 and with her August 2006 PIP still open, Currie's yearly progress was reviewed by Area Human Resources Director Paula Caya. Caya's

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[1] Currie's September PIP indicated that she had difficulties in four areas: (1) ownership of areas of supervision; (2) coaching/supervision skills; (3) communication skills; and (4) technical competence.

[2] Currie's plan contained ten requirements: of those ten, Currie had completed six (one partially) by the time her PIP was closed. Simpatico expressed satisfaction with Currie's performance, noting her "sincere effort" and "tangible progress towards the requirements of the plan."

review marked Currie's 2006 performance at below the "competent" level.

B. Currie's 2007 Reviews.

The following year, Currie underwent another annual review, and again was rated below the "competent" level. Currie's performance was ranked in the lowest category for three out of five quality metrics and for three out of four innovation metrics. In addition, Currie failed to keep her absences within company guidelines during this reporting period, which necessitated another PIP on December 26.[3]

C. Currie's 2008 Reviews.

Currie received two written disciplinary warnings in 2008: one on January 11, and one September 24. By the end of September, Currie had been cited for violating Dentsply's attendance policies, and Caya indicated that Currie would have received a third PIP had she not been terminated two months later.

3. *Dentsply's Reduction in Force*

In 2007, Dentsply acquired Sultan Healthcare Inc. ("Sultan"). Sultan possessed substantial manufacturing operations in New Jersey, and Dentsply was in the process of transferring those operations to the West Plant in 2008. To ensure that regulatory compliance requirements were met and that products failing to meet quality standards were promptly corrected, Dentsply created a Material Review Board (the "Board") at the West Plant to oversee the plant's manufacturing processes. To manage and support the new Board, Vice President and General Manager of Milford Operations Thomas Leonardi approved hiring a Quality Control Supervisor. Almost

[3] In issuing the PIP, Simpatico stated "this is the second consecutive year your performance has warranted a formal [PIP]. In light of this history, I am compelled to [say that] your future performance must show sustained improvement . . . failure to meet these performance expectations will result in disciplinary actions, including termination without further warning."

immediately, Dentsply was forced to place the position on hold due to its growing concerns with the national economic climate.

Throughout the summer and fall of 2008, Dentsply management issued a series of directives to all company managers. The directives asked all general managers to consider implementing initiatives that would have a positive impact on Dentsply's 2009 budget, the record does not reveal that Dentsply management specifically mentioned instituting a reduction in force as a means of accomplishing this goal. Still, when Leonardi met with Milford management to discuss achieving savings at the plant, he focused his proposal on reducing personnel by implementing a RIF. Among other objectives, the RIF contemplated terminating eight employees.

After consulting with Leonardi, Caya, and others, Grant McDowell - Currie's senior supervisor - determined that the Quality Department could cut costs while still meeting its business objectives by: (1) combining the job duties of the West Plant Quality Control Department Leader position, then held by Currie, with those of a Quality Engineer position, then held by Juan Salazar ("Salazar"); (2) eliminating one of those jobs; (3) adding extra duties to the combined job (including management of the new Material Review Board at the West Plant); and (4) locating the new job in the West Plant.

McDowell concluded that Salazar was particularly qualified for the now consolidated Quality Control Supervisor Position. McDowell based his determination on several factors: Salazar's experience in quality engineering, production management and supervision, his advanced education in engineering and

business administration, his familiarity with operating a Material Review Board, and his stellar performance record.[4]

McDowell determined that Currie was not qualified to perform either the essential functions of Salazar's position, which required an engineering background, or the contemplated functions of the new Quality Control Supervisor position, which required experience in managing a Material Review Board. McDowell also considered Currie's lack of education and failure to perform the functions of her own position, her 2006 and 2007 PIP's, and the multiple disciplinary warnings she received in 2008. Stated plainly, McDowell believed that by firing Currie he could reduce costs without impacting performance or sacrificing plant safety.

4. *Dentsply's Alleged Discrimination*

Currie contends that neither the economy nor her job performance was the true cause of her termination. Instead, Currie alleges that the work culture at Dentsply's Caulk Division was permeated with chauvinistic undercurrents. Currie asserts that Dentsply's culture was geared towards rewarding "yes men", by which she meant the employees loyal to Grant McDowell. Because McDowell was Currie's senior supervisor, Currie knew firsthand that she was not among his favored group of followers. In fact, Currie alleges that she was told by Simpatico that McDowell was pushing for her to be laid off because she didn't fit into "McDowell's Rat Pack."

Currie also disputes Dentsply's claim that she was fired as a result of either her poor performance or the implementation of the RIF Plan. Currie questions why the West Milford plant was the only facility to undergo a RIF, and whether the directives

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[4] Salazar came to Dentsply in October 2005 with supervisory experience, a Masters in Business Administration, and a Bachelor of Science in Industrial Engineering. Salazar earned an "exceeds expectations" rating in both his 2006 and 2007 yearly performance reviews.

from Dentsply management ever contemplated layoffs in the first place. Further, Currie asserts that McDowell fired her without adhering to standard corporate policy, which requires management to take an employee's performance and length of service into account before making a final decision.

STANDARD OF REVIEW

The Court will grant summary judgment for the defendant if it concludes there is no genuine issue as to any material fact.[5] Facts that could alter the outcome are 'material', and disputes are 'genuine' if evidence exists from which a rational person could conclude that the position of the person with the burden of proof on the disputed issue is correct.[6] The moving party bears the initial burden of showing that no material issues of fact are present.[7] Once that showing is made, the burden shifts to the nonmoving party to demonstrate that there are genuine material facts in dispute: "[i]f the movant puts in the record facts which, if undenied, entitle h[er] to summary judgment, the burden shifts to the defending party to dispute the facts by affidavit or proof of similar weight.[8]

The Discrimination in Employment Act ("DEA") governs claims of discrimination in Delaware, and indirectly affects this Court's review of Currie's claim.[9] Under the DEA, employment discrimination is prohibited with respect to the

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[5] Super. Ct. Civ. R. 56(c); *Burkhart v. Davies*, 602 A.2d 56, 59 (Del. 1991).

[6] *Horowitz v. Fed. Kemper Life Assur. Co.*, 57 F.3d 300, 302 n.1 (3d Cir. 1995).

[7] *Moore v. Sizemore*, 405 A.2d 679, 680 (Del. 1979).

[8] *Revis v. Slocomb Indus.*, 814 F. Supp. 1209, 1215 (D. Del. 1993) (quoting *Hankins v. Temple Univ.*, 829 F.2d 437, 440 (3d Cir. 1987).

[9] *Schuster v. Derocili*, 775 A.2d 1029, 1033 (Del. 2001).

protected classes of race, marital status, genetic information, color, age, religion, sex and national origin.[10] Currie's complaint alleges Dentsply violated the DEA by terminating her employment on the basis of her age and sex.

In deciding cases under the DEA, Delaware courts have adopted the standards articulated by the United States Supreme Court in analyzing federal employment discrimination claims.[11] Under this rubric, Currie may establish her employment discrimination claim in either, or both, of two ways: (1) by presentation of direct evidence that Dentsply harbored discriminatory animus under *Price Waterhouse v. Hopkins*,[12] or (2) from evidence which creates an inference of discrimination under the burden-shifting framework of the *McDonnell Douglas/Burdine/Hicks* trilogy.[13] Currie has not presented direct evidence that Dentsply harbored discriminatory animus. Therefore, the Court will analyze her claims under the burden-shifting framework of *McDonnell Douglas/Burdine/Hicks*.

The burden-shifting framework requires Currie to establish by a preponderance of the evidence a prima facie case of disparate treatment.[14] If Currie succeeds in presenting a prima facie case, the burden of production shifts to Dentsply to "articulate some legitimate, nondiscriminatory reason" for the unfavorable

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[10] Del. Code Ann. Tit. 19, § 711(a)(1) (2008).

[11] *See generally Riner v. NCR*, 434 A.2d 375 (Del. 1981); *Giles v. The Family Court*, 411 A.2d 599 (Del. 1980).

[12] 490 U.S. 228 (1998).

[13] *See St. Mary's Honor Ctr. v. Hicks*, 509 U.S. 502 (1993); *Texas Dep't of Community Affairs v. Burdine*, 450 U.S. 248 (1981); *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).

[14] *See Burdine*, 450 U.S. at 252.

treatment.[15] If Dentsply produces a legitimate, nondiscriminatory reason, the burden shifts back to Currie, who can defeat summary judgment by pointing to some direct or circumstantial evidence from which a rational factfinder could either: "(1) disbelieve [Dentsply's] articulated legitimate reason; or (2) believe that an invidious discriminatory reason was more likely than not the motivating or determinative cause of [Dentsply's] action."[16]

DISCUSSION

1. *Currie establishes a primae facie case of discrimination.*

McDonnell Douglas requires the plaintiff to make out a prima facie case of discrimination sufficient to allow a reasonable factfinder to conclude that: (1) she belonged to a protected class, (2) she was qualified for the position that she sought or from which she was terminated, (3) she was either not selected for the position or terminated, and (4) the circumstances surrounding the non-selection and termination give rise to an inference of illegal discriminatory motive."[17]

Dentsply does not dispute that Currie meets the first and third prongs of the *McDonnell Douglas* test. Instead, Dentsply argues that Currie fails to meet the second element, because she was unqualified for the position she sought; as well as the fourth element, because the circumstances of her termination do not give rise to an inference of discrimination.

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[15] *McDonnell Douglas*, 411 U.S. at 802; *Fuentes v. Perskie*, 32 F.3d 759, 763 (3d Cir. 1994).

[16] *Sheridan v. E.I. DuPont & Co.*, 100 F.3d 1061, 1067 (3d Cir. 1996).

[17] *See O'Connor v. Consolidated Coin Caterers Corp.*, 517 U.S. 308, 312-13 (1996); *see also Makky v. Chertoff*, 541 F.3d 205, 214 (3d Cir. 2008).

Currie contends that she has met her burden by showing that she was qualified for her position as well as the newly created position. Currie also asserts that being replaced with a younger employee outside of her protected class gives rise to an inference of discrimination. For these purposes, Currie's position on both points may be taken as established. With respect to Currie's qualifications, the Third Circuit has long recognized that, unless the plaintiff is objectively unqualified, the issue of the plaintiff's competence should typically be resolved in the second and third stages of the *McDonnell Douglas* analysis.[18] While "more than a denial of promotion as a result of a dispute over qualifications" must be shown to prove pretext,[19] such a dispute will satisfy the plaintiff's prima facie hurdle of establishing qualification as long as the plaintiff demonstrates that "[s]he was sufficiently qualified to be among those persons from whom a selection, to some extent discretionary, would be made."[20]

Dentsply argues that Currie was objectively unqualified for the newly created position, but Currie's years of related service belie that argument. This is not to say that Dentsply had no other qualified employees, or that Dentsply had no other employees that were *more* qualified than Currie. However, the record does not, with

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[18] *See, e.g., Ezold v. Wolf, Block, Shorr & Solis-Cohen*, 983 F.2d 509, 523 (3d Cir. 1992); *Fowle v. C & C Cola*, 868 F.2d 59, 64 (3d Cir. 1989); *Healy v. New York Life Ins. Co.*, 860 F.2d 1209, 1214 n.1 (3d Cir. 1988), *cert. denied*, 490 U.S. 1098 (1989).

[19] *See Molthan v. Temple Univ.*, 778 F.2d 955, 962 (3d Cir. 1985).

[20] *Bennum v. Rutgers State Univ.*, 941 F.2d 154, 170 (3d Cir. 1991), *cert. denied*, 502 U.S. 1066 (1992). *See also Weldon v. Kraft, Inc.*, 896 F.2d 793, 798-99 (3d Cir. 1990) ("[T]o deny the plaintiff an opportunity to move beyond the initial stage of establishing a prima facie case because [s]he has failed to introduce evidence showing he possesses certain subject qualities would improperly prevent the court from examining the criteria to determine whether their use was mere pretext.").

the clarity necessary at this stage, demonstrate that Currie was objectively unqualified either to keep her old job or step into the new one.

As to the fourth element of the test, the Third Circuit has repeatedly emphasized that "the fourth element must be relaxed in certain circumstances, as when there is a reduction in force."[21] Currie, of course, was terminated from her position through a reduction in force. In addition, a person outside of her protected class, a younger male, was chosen to fill a newly created position consisting of many of Currie's former responsibilities.

Where age discrimination is alleged, a plaintiff can meet her prima facie burden by presenting evidence that a younger employee assumed her responsibilities after her employer decided not to replace her.[22] With respect to gender, in a reduction-in-force case, "it is sufficient to show that [plaintiff] was discharged, while the employer retained someone outside the protected class."[23] It is undisputed that Currie's replacement, or successor, was a younger male.

It is helpful to recall that the prima facie case under the *McDonnell Douglas* framework is not intended to be onerous.[24] The prima facie case merely "raises an inference of discrimination only because we presume these acts, if otherwise unexplained, are more likely than not based on the consideration of impermissible

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[21] *Pivirotto v. Innovative Systems, Inc.*, 191 F.3d 344, 357 (3d Cir. 1999) (citing *Torre v. Casio, Inc.*, 42 F.3d 825, 831 (3d Cir. 1994).

[22] *Torre*, 42 F.3d at 831.

[23] *Marzano v. Computer Science Corp.*, 91 F.3d 497, 503 (3d Cir. 1996) (internal quotation and brackets omitted).

[24] *Burdine*, 450 U.S. 248, 253.

factors."[25] Considering the evidence in the light most favorable to the non-moving party, the Court will accept that Currie has met her burden in establishing a prima facie case of discrimination under *McDonnell Douglas*.

2. *Dentsply has articulated a legitimate, nondiscriminatory rationale for its employment action.*

Because of the foregoing, the burden now shifts to Dentsply to rebut the presumption of discrimination arising out of Currie's claim. To do so, Dentsply must produce evidence that there was a "legitimate, nondiscriminatory reason" to terminate Currie.[26] Dentsply must "clearly set forth, through the introduction of admissible evidence, the reasons for the plaintiff's rejection. The explanation provided must be legally sufficient to justify a judgment for the defendant."[27] Critically, however, "[t]he employer need not prove that the tendered reason *actually* motivated its behavior, as throughout this burden-shifting paradigm the ultimate burden of proving intentional discrimination always rests with the plaintiff."[28]

Thus, even assuming, as we do for these purposes, the analysis of Section 1, Currie's position is not well taken.

Dentsply has satisfied the burden now moved back upon it by articulating a legitimate, nondiscriminatory reason for terminating Currie. Dentsply's reasoning may be summarized as follows: First, due to economic concerns, Dentsply felt forced to conduct the RIF. Second, after assessing its employment needs, Dentsply

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[25] *Furnco Construction Co. v. Waters*, 438 U.S. 567, 577 (1978).

[26] *Burdine*, 450 U.S. at 254.

[27] *Id.* at 255-56.

[28] *Fuentes*, 32 F.3d at 763 (emphasis in original).

determined that Currie's position was redundant and could be included in the RIF. Third, Dentsply compared the credentials of both Salazar and Currie for its newly created position, and determined that Salazar was more qualified for the job. Taken together, Dentsply's proffered reasons for terminating Currie undeniably demonstrate a legitimate, nondiscriminatory basis for its actions, well established by the record.

3. *Currie fails to establish pretext.*

In order to defeat summary judgment where the defendant answers the plaintiff's prima facie case with proffered legitimate, non-discriminatory reasons for its actions, "the plaintiff must point to some evidence, direct or circumstantial, from which a factfinder could reasonably either (1) disbelieve the employer's articulated legitimate reasons; or (2) believe that an invidious discriminatory reason was more likely than not a motivating or determinative cause of the employer's action."[29] To avoid summary judgment, Currie's evidence rebutting Dentsply's proffered legitimate reasons must allow a factfinder reasonably to infer that each of Dentsply's proffered non-discriminatory reasons was either a *post hoc* fabrication or otherwise did not actually motivate the employment action. If Currie accomplishes this, she will survive summary judgment without needing to come forward with additional evidence of discrimination beyond her prima facie case.[30]

A. Currie has not articulated sufficient evidence of pretext.

The ultimate focus of this inquiry is on whether the plaintiff has met her burden of showing that the employer has discriminated against a member of a protected

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[29] *Id.* at 764.

[30] *Id.*

class.[31] The law does not command employers to be wise or efficient or even rational - it only restricts them from making employment decisions motivated by discriminatory animus.[32] To discredit the employer's proffered reason, then, Currie cannot simply show that Dentsply's decision was wrong or mistaken, since the factual dispute at issue is whether discriminatory animus motivated the employer, not whether the employer is wise, shrewd, prudent, or competent.[33]

To that end, Currie must cast "substantial doubt" upon the proffered legitimate reason by demonstrating "such weaknesses or implausibilities, inconsistencies, incoherences, or contradictions in [Dentsply's] proffered legitimate reasons for its action [such] that a reasonable factfinder could rationally find them 'unworthy of credence.'"[34] This standard arises from an inherent tension between the goal of all discrimination law and our society's commitment to free decision making by the private sector in economic affairs.[35] It places a heavy burden on plaintiffs.[36]

In attempting to meet this burden, Currie questions whether the RIF was undertaken as part of a corporate initiative, whether the RIF was necessary, whether

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[31] *Burdine*, 450 U.S. at 253.

[32] *Fuentes*, 32 F.3d at 764.

[33] *Ezold*, 983 F.2d at 531, 533 (3d Cir. 1992); *Villanueva v. Wellesley College*, 930 F.2d 124, 131 (1st Cir.), *cert. denied*, 502 U.S. 861 (1991).

[34] *Ezold*, 983 F.2d at 531; *see also Sheridan*, 100 F.3d at 1071 (3d Cir. 1996) (endorsing *Feuntes*).

[35] *Feuntes*, 32 F.3d at 765 (quoting *Ezold*, 983 F.2d at 531).

[36] *Sullivan v. Nationwide Life Ins. Co.*, 2010 WL 2654673, at *8 (D. Del. July 16, 2010).

the RIF was administered properly, and whether the RIF accomplished its goals.[37] Currie ties these issues to Dentsply's purported acknowledgment that she would not have been fired but for the RIF initiative. From this, Currie proposes that a reasonable factfinder could conclude that Dentsply's rationale for terminating her employment is unworthy of credence.

Dentsply has adequately demonstrated that the RIF was implemented in response to then-existing economic conditions. Currie's attempts to cast doubt about the necessity for the RIF are misguided. The record compels the opposite conclusion: that Dentsply instituted the RIF to cut costs in a difficult economic climate.

There may have been other, better ways for Dentsply to maintain efficiency and cut costs. Dentsply may not have needed to conduct a RIF to achieve these goals. Upon initiating the RIF, Dentsply may have made poor choices in selecting the employees who would be terminated. Even accepting all of that, it is simply not the role of this Court to evaluate Dentsply's business judgment in implementing its RIF.[38] The Court's task is to ascertain whether or not Currie has exposed weaknesses and inconsistencies sufficient for a reasonable factfinder to conclude that Dentsply's

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[37] Specifically, Currie contends that McDowell's testimony that he was "requested by corporate to initiate a reduction in force" is unsupported by the record, as is his explanation for why West Milford was the only facility to implement a RIF. In administering the RIF, Currie alleges McDowell ignored corporate policy by failing to consider her lengthy service to the company, or her most recent performance reviews. Currie also questions Dentsply's assertions that the RIF would lead to increased efficiency while cutting costs.

[38] *See Ezold*, 983 F.2d at 533 ("The firm may have been wrong in its perception of [Plaintiff's] legal analytic ability and, if so, its decision to pass over Plaintiff would be unfair, but that is not for us to judge. Absent a showing that [Defendant's] articulated reason of lack of ability in legal analysis was used as a tool to discriminate on the basis of sex, Plaintiff cannot prevail.")

implementation of the RIF was unworthy of credence. The Court concludes that she has not.

Currie's strongest argument is not that the Dentsply implemented the RIF without cause; instead, it is that Dentsply's decision to include her in the RIF was implausible because Dentsply would not have fired her, based on performance, had it not conducted the RIF. Even this argument cannot stand in the face of Currie's difficult burden on summary judgment. While Currie strenuously advocates that she would not have been fired if the RIF had not taken place, the RIF did, in fact, take place. In the course of implementing the RIF, Dentsply would necessarily consider employee performance. Thus, while Currie's performance may not have warranted an involuntary dismissal during an ordinary year, the implementation of the RIF changed that calculus. Because Currie has not adduced any evidence that would cause a factfinder to disbelieve Dentsply's reasons for instituting the RIF, Currie's claim must fail.

Finally, with respect to Currie's performance, the record discloses a substantial collection of negative reviews accumulating in the years leading up to the RIF. While Currie argues that these reviews were animated by McDowell's discriminatory bias against her, Currie's only evidence of McDowell's bias comes from her own deposition, which contains only unsubstantiated characterizations of what other employees may have told her.

In a motion for summary judgment, the nonmoving party cannot rely upon conclusory allegations to establish a genuine issue of material fact.[39] Currie's own deposition testimony, without more, is insufficient to carry her undisputedly heavy

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[39] *Pastore v. Bell Tel. Co.*, 24 F. 3d 508, 511 (3d Cir. 1994).

burden on summary judgment. Thus, the Court finds that Currie has offered no relevant evidence from which a factfinder could reasonably infer that Dentsply's proffered reasons for terminating her employment were pretextual.

B. Currie has not demonstrated that invidious discrimination was a motivating cause of Dentsply's decision to terminate her employment.

Although Currie has not cast substantial doubt on the defendant's proffered reason, she can still avoid summary judgment by producing sufficient evidence that would allow a factfinder reasonably to infer that the employer was motivated by discriminatory animus.[40] In other words, Currie must show, by a preponderance of the evidence, that "discrimination was more likely than not a motivating or determinative cause of the adverse employment action."[41]

That Currie spends little, if any, time addressing this prong of the test underscores the basic flaw inherent in her primary argument. Currie's only evidence of invidious discrimination is her own testimony, which, as noted above, is not sufficient to withstand summary judgment. Even the existence of *some* evidence in support of the nonmoving party will not be sufficient for denying a motion for summary judgment; there must be enough evidence to enable a jury reasonably to find for the nonmoving party on that issue.[42] Currie cannot meet this standard. As such, the Court finds that Currie has not established discrimination as a motivating cause of Dentsply's decision to terminate her employment.

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[40] *Id.*

[41] *Keller v. Orix Credit Alliance*, 130 F.3d 1101, 1111 (3d Cir. 1997).

[42] *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986).

CONCLUSION

For the foregoing reasons, Dentsply's Motion for Summary Judgment is **GRANTED**.

SO ORDERED.

/s/ Robert B. Young
J.

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cc: Counsel
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