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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TRISHA ROCHE, individually,

Plaintiff,

v.

AUDIO VISUAL SERVICES
GROUP, INC. d/b/a
PSAV PRESENTATION SERVICES,

Defendant.

Case No. 2:09-cv-01810-LDG-GWF

ORDER

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Plaintiff Trisha Roche brought this action against defendant Audio Visual Services Group, INC. d/b/a PSAV Presentation Services (“PSAV”) seeking compensatory and punitive damages based on alleged workplace sexual harassment and discrimination. Roche seeks relief based on five causes of action: sexual harassment, unlawful discriminatory employment practices, intentional interference with prospective economic advantage, retaliation, and intentional infliction of emotional distress. PSAV has filed an unopposed motion for summary judgment on all of Roche’s claims (#36), and, for the reasons stated herein, the court grants defendant’s motion.

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I. Analysis

A grant of summary judgment is appropriate “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56. Rule 56(a) mandates summary judgment “after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party’s case, and on which that party will bear the burden of proof at trial.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). All justifiable inferences must be viewed “in the light most favorable to the non-moving party.” *Cnty. of Tuolumne v. Sonora Cmty.*

1 *Hosp.*, 236 F.3d 1148, 1154 (9th Cir. 2001). The movant “bears the initial burden of establishing
2 the absence of a genuine issue of material fact.” *Fairbank v. Wunderman Cato Johnson*, 212 F.3d
3 528, 531 (9th Cir. 2000). In order to oppose summary judgment, the non-moving party must “go
4 beyond the pleadings and identify facts which show a genuine issue for trial.” *Id.* Such opposition
5 “must cite to the record in support of the allegations made in the pleadings to demonstrate that a
6 genuine controversy requiring adjudication by a trier of fact exists.” *Taybron v. City of S. F.*, 341
7 F.3d 957, 960 (9th Cir. 2003). If the non-moving party meets its burden, summary judgment must
8 be denied. Fed. R. Civ. P. 56(e). Further, the failure of an opposing party to respond to a motion
9 within the allotted timeframe “shall constitute a consent to the granting of the motion.” LR 7-2(d).

10 **A. Sexual Harassment**

11 Roche claims that PSAV subjected her to “sexual harassment and a hostile working
12 environment resulting in a change in the terms and conditions of her employment in violation of
13 Title VII.” Compl. ¶ 30. Roche further claims that “[d]efendant’s employees and executives
14 continuously and consistently made sexually explicit comments and remarks to plaintiff, and
15 otherwise created a hostile working environment for plaintiff because of her gender.” Compl. 6.

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17 “Although not explicitly included in the text of Title VII, claims based on a hostile work
18 environment fall within Title VII’s protections.” *Panelli v. First Am. Title Ins. Co.*, 704 F. Supp.
19 2d 1016, 1028 (9th Cir. 2010). Hostile work environment claims “are different in kind from
20 discrete acts” and “[t]heir very nature involves repeated conduct.” *Nat’l R.R. Passenger Corp. v.*
21 *Morgan*, 536 U.S. 101, 115 (2002). Therefore, the hostile work environment “cannot be said to
22 occur on any particular day.” *Id.* For a hostile work environment claim to survive summary
23 judgment, the plaintiff must show that “(1) she was subjected to verbal or physical conduct of a
24 sexual nature; (2) the conduct was unwelcome; and (3) the conduct was sufficiently severe or
25 pervasive to alter the conditions of her employment and create an abusive work environment.”
26 *Porter v. Cal. Dept. Corr.*, 419 F.3d 885, 892 (9th Cir. 2005). A determination of hostility is based

1 on the totality of the circumstances, and the court should look at “the frequency of the
2 discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere
3 offensive utterance; and whether it unreasonably interferes with an employee’s work
4 performance.” *Harris v. Forklift Systems, Inc.*, 510 U.S. 17, 23 (1993). Further, “[t]he working
5 environment must both subjectively and objectively be perceived as abusive . . . [and] [w]hether
6 the workplace is objectively hostile must be determined from the perspective of a reasonable
7 person with the same fundamental characteristics.” *Fuller v. City of Oakland, Cal.*, 47 F.3d 1522,
8 1527 (9th Cir. 1995). Finally, “simple teasing, offhand comments, and isolated incidents (unless
9 extremely serious) will not amount to discriminatory changes in the terms and conditions of
10 employment.” *Faragher v. City of Boca Raton*, 524 U.S. 775, 788 (1998) (internal quotation
11 marks and citation omitted).

12 Roche, in support of her sexual harassment claims, alleged in her Complaint a laundry list
13 of misogynistic comments made by PSAV’s employees. Roche claims that Regional Vice
14 President Richard Pabst allegedly told her “that, as a woman, she was only permitted to wear
15 dresses or skirts . . . [and that] only men were allowed to wear pants.” Compl. ¶ 9. Roche also
16 claims that Pabst would “discuss the looks of various male General Managers . . . and would utter
17 comments . . . such as ‘I were a woman, I would do them.’” Compl. ¶ 10. Further, Roche claims
18 that Pabst once sent her a text message “saying words or words to the effect ‘do you have a hard
19 on?’” Compl. ¶ 11.

20 Roche alleges that Senior Vice President John Rissi insinuated Roche would be able to
21 sleep with clients in order to prevent those clients from doing business with competitors, Compl. ¶
22 12, and that he responded to her complaints regarding inappropriate comments “with words to the
23 effect ‘[m]en will be men,’” Compl. ¶ 14. More generally, Roche alleges that employees of PSAV
24 would “regularly make comments, crude sexual jokes, and use foul language that included
25 referring to women’s breasts as ‘boobs’ and also referring to women as ‘whores;’” “tell plaintiff
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1 words to the effect ‘stop being such a girl;’” use foul language “almost daily;” and “tell plaintiff to
2 twirl around in her dress.” Compl. ¶ 13-16¹. In response to the alleged inappropriate behavior,
3 Roche stated that she complained to Senior Vice President Rissi “about the fact that the
4 atmosphere made her uncomfortable, that work was like a boys [sic] club, and that the atmosphere
5 needed to be cleaned up.” Compl. ¶ 14.

6 While Roche’s Complaint alleges that she was subjected to verbal conduct of a sexual
7 nature, and that the conduct was unwelcome, the conduct simply was not sufficiently severe or
8 pervasive enough to alter the conditions of her employment and create an abusive work
9 environment. *See Panelli v. First Am. Title Ins. Co.*, 704 F. Supp. 2d 1016, 1020 (9th Cir. 2010)
10 (affirming summary judgment for defendant where managers referred to women as “bitches”;
11 would tell female employees “you look good today, I’d do you”; growled when observing women
12 and commented “I’d do her”; pantomimed sexual intercourse; harassed an employee when touring
13 a project nearby a brothel; pressured an employee to enter the brothel; stated that they wanted to
14 enter the brothel and see if the wallpaper was “scratch & sniff”; suggested eating at the brothel and
15 said “we can have the ‘up-the-butt chicken special’”; physically intimidated an employee by
16 refusing to let her pass while making inquiry as to how good looking he must be; and discussed a
17 marketing representative with “big tits” and said “all she had to do was just shake her tits . . . and
18 she would get whatever she wanted”); *Kortan v. Cal. Youth Auth.*, 217 F.3d 1104, 1110 (9th Cir.
19 2000) (affirming summary judgment for defendant where, though there was “no question” that his
20 comments were offensive, his use of the terms “castrating bitch,” “bitch,” “histrionics,”
21 “madonna,” and “regina” were infrequent and not directed at the plaintiff). Further, Roche has not
22 introduced evidence of any sufficiently severe or pervasive conduct to demonstrate any genuine
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25 ¹Roche’s Complaint is numbered by paragraph; however, Roche erroneously utilized the
26 numbers 14-16 twice. These paragraphs reside on the same page of the Complaint.

1 issue of material fact. Therefore, summary judgment in favor of PSAV is appropriate on Roche's
2 sexual harassment claim.

3 **B. Gender Discrimination**

4 Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e-2(a)(1) states
5 that "[i]t shall be an unlawful employment practice for an employer to . . . discharge any
6 individual, or otherwise to discriminate against any individual with respect to his compensation,
7 terms, conditions, or privileges of employment, because of such individual's race, color, religion,
8 sex, or national origin." Similarly, Nevada Revised Statutes § 613.330(1)(a) makes it unlawful for
9 an employer "to discharge any person, or otherwise to discriminate against any person with respect
10 to the person's compensation, terms, conditions or privileges of employment, because of his or her
11 race, color, religion, sex, sexual orientation, age, disability or national origin." Because this state
12 law provision is almost identical to Title VII, Nevada courts look to federal law for guidance in
13 discrimination cases, *see Pope v. Motel 6*, 114 P.3d 277, 280 (Nev. 2005), and apply the
14 *McDonnell Douglas* burden-shifting approach, *see Apeceche v. White Pine Cnty.*, 615 P.2d 975,
15 977 (Nev. 1980). Accordingly, because a discrimination claim under Nevada law is substantially
16 similar to a Title VII claim, the court will discuss only Title VII. *See Arberry v. Tejas*
17 *Underground, LLC*, No. 2:08-cv-00168-GMN-PAL, 2010 WL 5070777, at *4 n.2 (D. Nev. Dec. 6,
18 2010); *cf. Bradley v. Harcourt, Brace & Co.*, 104 F.3d 267, 270 (9th Cir. 1996).

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20 In the absence of direct evidence of discrimination, courts analyze Title VII discrimination
21 claims according to the burden-shifting framework set out in *McDonnell Douglas Corp. v. Green*,
22 411 U.S. 792 (1973). *See, e.g., Diaz v. Eagle Produce Ltd. P'ship*, 521 F.3d 1201, 1207 (9th Cir.
23 2008); *Coghlan v. Am. Seafoods Co. LLC*, 413 F.3d 1090, 1093-94 (9th Cir. 2005); *Aragon v.*
24 *Republic Silver State Disposal, Inc.*, 292 F.3d 654, 658-59 (9th Cir. 2003). Under the *McDonnell*
25 *Douglas* framework, a plaintiff must first make out a prima facie case of discrimination. *See*
26 *Coghlan*, 413 F.3d at 1093-94. To do this,

1 a plaintiff must offer proof: (1) that the plaintiff belongs to a class of persons protected
2 by Title VII; (2) that the plaintiff performed his or her job satisfactorily; (3) that the
3 plaintiff suffered an adverse employment action; and (4) that the plaintiff's employer
treated the plaintiff differently than a similarly situated employee who does not belong
to the same protected class as the plaintiff.

4 *Cornwell v. Electra Cent. Credit Union*, 439 F.3d 1018, 1028 (9th Cir. 2006) (citing *McDonnell*
5 *Douglas*, 411 U.S. at 802). If a plaintiff makes out a prima facie case, “the burden shifts to the
6 employer to articulate a legitimate, non-discriminatory reason for its adverse employment action.”
7 *Diaz*, 521 F.3d at 1207. “If the employer satisfies its burden, the employee must then prove that
8 the reason advanced by the employer constitutes mere pretext for unlawful discrimination.” *Id.*

9 A plaintiff can prove pretext either “(1) indirectly, by showing that the employer’s
10 proffered explanation is “unworthy of credence” because it is internally inconsistent or otherwise
11 not believable, or (2) directly, by showing that unlawful discrimination more likely motivated the
12 employer.” *Chuang v. Univ. of Cal. Davis, Bd. Of Trs.*, 225 F.3d 1115, 1127 (9th Cir. 2000).
13 However, a plaintiff’s indirect evidence must be both specific and substantial to overcome the
14 legitimate reasons put forth by an employer. *Aragon*, 292 F.3d at 659. Furthermore, “[w]hile the
15 burden of production may shift, the ‘ultimate burden of persuading the trier of fact that the
16 defendant intentionally discriminated against the plaintiff remains at all times with the plaintiff.’”
17 *Id.* (quoting *Tex. Dep’t of Cmty. Affairs v. Burdine*, 450 U.S. 248, 253 (1981)).

18 Roche satisfies the requirements to establish a prima facie case of discrimination according
19 to the *McDonnell Douglas* framework. Roche was a female employee of PSAV when she was
20 terminated, and was therefore part of a protected class. She maintains that during her employment
21 with PSAV she “was a loyal and competent employee and made substantial contributions,” and
22 therefore performed her job satisfactorily. Compl. ¶ 8. Roche alleges that she “was fired in
23 retaliation for making her complaints known about the atmosphere at work,” which action was
24 adverse to her employment. Compl. ¶ 15. Lastly, Roche satisfies the fourth element, as she alleges
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1 that “male employees in her position were not subjected to such harassment, discrimination and
2 disparate treatment.” Compl. ¶ 36.

3 As plaintiff has stated a prima facie case of discrimination, PSAV must set forth a
4 legitimate, non-discriminatory reason for its adverse employment action. Laura Brassington,
5 PSAV’s Human Resources Vice President, stated that she conducted an investigation into
6 inappropriate comments allegedly made by Plaintiff during the course of a conversation which
7 took place between Plaintiff and a potential client. Def.’s Mot. for Summ. J. 4. Brassington
8 maintains that her investigation indicated that while at an industry function, plaintiff stated that a
9 potential client didn’t use PSAV – but instead a lesser-qualified competitor – because the potential
10 client “must have gotten money under the table.” *Id.* Brassington further maintains that a high-
11 level employee of the potential client heard the comment and was “stunned and offended.” *Id.*
12 Plaintiff did not deny making the statement. Pl.’s Dep. 202:3-4. As a result of the comment and the
13 potential client’s reaction, plaintiff’s employment at PSAV was terminated.

14 Because PSAV has offered a legitimate, non-discriminatory reason for its adverse
15 employment action, the burden shifts back to Roche to show that PSAV’s reason is mere pretext
16 for unlawful discrimination. Roche has not met this burden, as her only proffered explanation for
17 PSAV’s action was that PSAV’s termination of her employment based on the aforementioned
18 comment to the client was PSAV’s “way of getting somebody out that was complaining about
19 sexual harassment.” *Id.* This conclusory statement does not show the Defendant’s explanation is
20 unworthy of credence, inconsistent, or not believable; neither does it show that unlawful
21 discrimination motivated the employer. Therefore, because Plaintiff has not satisfied her burden
22 under the *McDonnell Douglas* framework to demonstrate any genuine issue of material fact,
23 summary judgment in favor of PSAV is appropriate on Roche’s gender discrimination claim.
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1 **C. Intentional Interference With Prospective Economic Advantage**

2 Roche claims that the Defendant, “by and through its Director of Sales and Operations,
3 intended to harm the plaintiff by preventing the [employment] relationship [between Roche and
4 Harrah’s] from moving forward via his comments to plaintiff’s new boss, Mr. Stewart.” Compl. ¶
5 42. Further, Roche claims that PSAV “had no privilege or justification for making the comments
6 . . . [and that] [a]s a result of defendant’s conduct, plaintiff lost her job at Harrah’s.” Compl. ¶ 43-
7 44.

8 In order to prove intentional interference with prospective economic advantage (“IIPEA”),
9 the plaintiff must show “(1) a prospective contractual relationship between the plaintiff and a third
10 party; (2) knowledge by the defendant of the prospective relationship; (3) intent to harm the
11 plaintiff by preventing the relationship; (4) the absence of privilege or justification by the
12 defendant; and (5) actual harm to the plaintiff as a result of the defendant’s conduct.” *Wichinsky v.*
13 *Mosa*, 847 P.2d 727, 729-30 (Nev. 1993).

14 Roche has not met her burden of raising a genuine issue of material fact. Roche states that
15 “Defendant . . . had no privilege or justification making the [alleged derogatory] comments to
16 plaintiff’s new boss, Mr. Stewart.” However, Roche fails to support her claim that no privilege or
17 justification existed, and only stated in her complaint that a PSAV director “made several
18 derogatory comments and insinuations about plaintiff” and told Plaintiff’s new employer “to make
19 sure that plaintiff was ‘checked out.’” Compl. ¶ 24. The Ninth Circuit has held that this type of
20 comment is not actionable. *See Anaya v. Nissan N. Am., Inc.*, 399 F. App’x 275, 276 (9th Cir.
21 2010) (holding that summary judgment was proper where plaintiff, who had asserted an IIPEA
22 claim against former employer who allegedly stated to plaintiff’s employer that plaintiff was a
23 “troublemaker, “disruptive,” and “and shouldn’t be promoted to management position,” did not
24 put forth evidence that the comments at the heart of the litigation were not privileged).

1 Roche has also failed to provide any evidence that actual harm resulted as a result of
2 PSAV's conduct. This fifth element is not satisfied when the pleadings indicate that the harm
3 which occurred could just as easily have occurred due to acts other than those of the Defendant.
4 *See Reudy v. Clear Channel Outdoors, Inc.*, 693 F. Supp. 2d 1091, 1124 (“However[,] based on
5 the pleadings[,] the harm Plaintiffs allege, *e.g.*, depressed rates at which Plaintiffs [sic] signs have
6 been sold in the past – could just as readily been caused by market conditions than by any
7 intentional act of Defendants.”). All the evidence on record indicates that Roche was terminated
8 from her position at Harrah's not because of PSAV's actions, but due to Roche's omitting portions
9 of her employment history on her job application. Decl. of Ty Stewart. ¶ 11; Pl.'s Dep. 258:25-
10 259:10. Roche signed Harrah's job application, which clearly stated that “[a]ny false or misleading
11 information furnished by [the applicant] regarding this application will result in the rejection of
12 this application *or termination if employed by Harrah's Operating Company, Inc. or one of its*
13 *subsidiaries . . .*” Pl.'s Dep. Ex. C (emphasis added). Therefore, because Roche failed to
14 demonstrate any genuine issue of material fact, summary judgment in favor of the PSAV is
15 appropriate on Roche's intentional interference with prospective economic advantage claim.

16 **D. Retaliation**

17 Roche claims that “defendant willfully, wantonly, recklessly and maliciously violated Title
18 VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-16 et. seq., by discriminating
19 against Plaintiff in retaliation for her having complained of sexual harassment and discrimination
20 in employment practices by Defendants.”² Compl. ¶ 48. Plaintiff further claims that she “was fired
21 in retaliation for making her complaints known about the atmosphere at work.” Compl. ¶ 15.
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24 ² Plaintiff's complaint erroneously references 42 U.S.C. § 2000e-16, which addresses employment by the federal
25 government. The proper statutory reference would be to 42 U.S.C. § 2000e-3, which makes it unlawful for an employer
26 “to discriminate against any of his employees...because [the employee] has opposed any practice made an unlawful
employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner
in an investigation, proceeding, or hearing under this subchapter.”

1 The *McDonnell Douglas* burden-shifting framework previously mentioned is also
2 applicable to Title VII retaliation claims. *Cohen v. Fred Meyer, Inc.*, 686 F.2d 793, 796 (9th Cir.
3 1982). “To establish a prima facie case of discriminatory retaliation, a plaintiff must show that:
4 (1) she engaged in an activity protected under Title VII; (2) her employer subjected her to adverse
5 employment action; [and] (3) there was a causal link between the protected activity and the
6 employer’s action.” *Miller v. Fairchild Indus., Inc.*, 797 F.2d 727, 731 (9th Cir. 1986). Causation
7 sufficient to establish a prima facie case “may be inferred from the proximity in time between the
8 protected action and the allegedly retaliatory discharge” or can be proven “by providing direct
9 evidence of retaliatory evidence.” *Id.* Further, “[t]o show the requisite causal link, the plaintiff
10 must present evidence sufficient to raise the inference that her protected activity was the likely
11 reason for the adverse action.” *Cohen*, 686 F.2d at 796. If plaintiff establishes a prima facie case of
12 retaliation, “the burden of production shifts to the employer to articulate a legitimate, non-
13 retaliatory explanation for the action.” *Id.* At that point, “the employer need only produce
14 admissible evidence which would allow the trier of fact rationally to conclude that the employment
15 decision had not been motivated by discriminatory animus.” *Texas*, 450 U.S. at 257. If the
16 employer produces such evidence, “then the burden shifts once again to the plaintiff to show that
17 the defendant’s proffered explanation is merely a pretext for discrimination.” *Miller*, 797 F.2d at
18 731. Finally, to survive a motion for summary judgment, the non-moving party “must produce
19 *specific* facts showing that there remains a genuine factual issue for trial and evidence significantly
20 probative as to any [material] fact claimed to be disputed.” *Id.* (internal quotations marks and
21 citations omitted).

22 Roche established a prima facie case of retaliation. Roche alleges that she “opposed [a]
23 practice made an unlawful employment practice,” 42 U.S.C. § 2000e-3, by reporting to Senior
24 Vice President Rissi that she was uncomfortable with the atmosphere at work, Compl. ¶ 14. Roche
25 also alleges that “defendant willfully, wantonly, recklessly and maliciously discriminat[ed] against
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1 Plaintiff in retaliation for her having complained of sexual harassment and discrimination in
2 employment practices,” Compl. ¶ 48, and “was fired in retaliation for making her complaints
3 known about the atmosphere at work,” Compl. ¶ 15.

4 PSAV met its burden to set forth a legitimate, non-discriminatory reason for its adverse
5 employment action by showing that Laura Brassington, PSAV’s Human Resources Vice President,
6 discovered that Roche had made an inappropriate and offensive comment about a potential client.
7 Def.’s Mot. For Summ. J. 4. Plaintiff did not deny making the statement. Pl.’s Dep. 202:3-4. As a
8 result of the comment and the potential client’s reaction, plaintiff’s employment at PSAV was
9 terminated.

10 Because Roche set forth a legitimate, non-discriminatory reason for its adverse
11 employment action, the burden shifts back to Roche to show that PSAV’s reason is mere pretext
12 for unlawful discrimination. Roche has not met this burden, as her only proffered explanation for
13 PSAV’s action was that PSAV’s termination of her employment based on the aforementioned
14 comment to the client was PSAV’s “way of getting somebody out that was complaining about
15 sexual harassment.” Pl.’s Dep. 202:20-25. Therefore, because Plaintiff failed to demonstrate any
16 genuine issue of material fact, summary judgment in favor of the Defendant is appropriate on
17 Plaintiff’s retaliation claim.

18 **E. Intentional Infliction of Emotional Distress**

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20 Roche claims that “[a]s a direct and proximate result of the acts of all Defendants, Plaintiff
21 suffered and continues to [suffer] severe emotional distress.” Compl. ¶ 55. Under Nevada law,
22 “[t]o establish a cause of action for intentional infliction of emotional distress [“IIED”], Plaintiff
23 must establish the following: (1) extreme and outrageous conduct with either the intention of, or
24 reckless disregard for, causing emotional distress, (2) plaintiff’s having suffered severe or extreme
25 emotional distress and (3) actual or proximate causation.” *Jespersen v. Harrah’s Operating Co.*,

1 *Inc.*, 280 F. Supp. 2d 1189, 1194 (D. Nev. 2002). Generally, liability for emotional distress does
2 not extend to “mere insults, indignities, threats, annoyances, petty oppressions, or other
3 trivialities.” *Candelore v. Clark Cnty. Sanitation Dist.*, 752 F. Supp. 956, 962 (D. Nev. 1990),
4 *aff’d*, 975 F.2d 588 (9th Cir. 1992). In order to maintain a claim for intentional infliction of
5 emotional distress, a plaintiff must present proof of “serious emotional distress” causing physical
6 injury or illness. *Oliver v. Lowe*, 995 P.2d 1023, 1026 (Nev. 2000).

7 Plaintiff’s IIED claim is based on the alleged sexual harassment, discrimination, and
8 retaliation that occurred during her employment with PSAV, as well as Jay Jurgensen’s alleged
9 derogatory comments and insinuations made to Ty Stewart. Compl. 9. As stated in the above
10 sections, Plaintiff has not met the burden to maintain her sexual harassment, discrimination, or
11 retaliation claims in violation of Title VII. Since the alleged acts did not reach the level of severity
12 and pervasiveness necessary to maintain legitimate Title VII claims against Defendant, the alleged
13 acts are not “extreme or outrageous” enough to maintain an IIED claim. Further, Plaintiff has not
14 provided any evidence to support her allegation that her former employer, PSAV, “hunt[ed] down
15 its former employee” for the purpose of getting her fired from subsequent employment. Pl.’s Resp.
16 to Mot. to Dismiss. 6. The only evidence on the record is from the affidavit of Ty Stewart, wherein
17 he stated:

18 In or about April, 2008, I attended a meeting at the Rio. The purpose of the meeting
19 was to introduce my team to PSAV and, similarly, for PSAV to introduce its team to
20 us. Mr. Jurgensen was in attendance at that meeting and to my knowledge was the first
21 notice to Mr. Jurgensen that Ms. Roche had commenced work for Harrah’s. When I
22 introduced Ms. Roche to Mr. Jurgensen, it became immediately apparent that the two
23 of them knew each other. In fact, based on my observations, Mr. Jurgensen seemed
24 very surprised to see Ms. Roche. I don’t recall the exact circumstances of the
25 conversation between Mr. Jurgensen and myself, but it was communicated to me at
26 that point that Ms. Roche had previously worked for PSAV. Mr. Jurgensen did not
disparage Ms. Roche, and said that if I had further questions I should contact the
PSAV human resources group. Given the relationship between PSAV and Harrah’s...I
am certain I would have sought a reference from PSAV had I known Ms. Roche
worked for PSAV prior to working for Harrah’s.

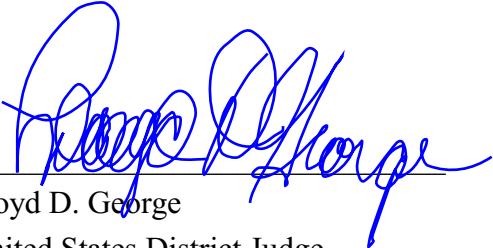
1 Decl. of Ty Stewart ¶ 6-8. Mr. Stewart further stated that after confirming Ms. Roche had not
2 disclosed her prior employment with PSAV, he made the decision, along with his human resources
3 department, to terminate Roche's employment with Harrah's. *Id.* Mr. Stewart concluded by stating
4 that "[n]o one outside Harrah's, including Mr. Jurgensen, influenced that decision." *Id.* As
5 previously stated in this opinion, Mr. Jurgensen's comments to Mr. Stewart are not actionable, as
6 Roche has not provided any evidence that the comments were not privileged. Further, there is
7 absolutely no evidence in the record which indicates that PSAV "hunted down" Roche for the
8 purpose of getting her fired from subsequent employment. Therefore, Roche has failed to
9 demonstrate any genuine issue of material fact, and summary judgment in favor of PSAV is
10 appropriate on Roche's retaliation claim.

11 **II. Conclusion**

12 For the reasons stated herein,

13 THE COURT HEREBY ORDERS that PSAV's Motion for Summary Judgment (#36) is
14 GRANTED.
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18 DATED this 19 day of July, 2011.

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23 Lloyd D. George
24 United States District Judge
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