



3 because the Plaintiff failed to meet the evidentiary burden to sustain her claim. The court concluded  
4 that the Plaintiff did not sufficiently oppose Defendants’ allegation that Plaintiff’s demotion was not  
5 motivated by age based animus. Plaintiff argues in her motion seeking relief from judgment or order  
6 that, due to an involuntary error, the court incorrectly held that Plaintiff’s hostile work environment  
7 claim did not survive under Law 100. She further argues that the claim under Law 100 should have  
8 survived, just as the hostile work environment claim survived under the ADEA because “on the  
9 merits, age discrimination claims asserted under the ADEA and under Law 100 are coterminous.”  
(See Docket No. 114.)

10 After reviewing the applicable case law, the court clarifies that in its recently issued opinion  
11 and order (Docket No. 111) it incorrectly dismissed Plaintiff’s hostile work environment claim under  
12 Law 100. As cited in the opinion and order, the First Circuit has held that “on the merits, age  
13 discrimination claims asserted under the ADEA and under Law 100 are coterminous.” Davila v.  
14 Corp. de P. R. para la Difusion Publica, 498 F.3d 9, 18 (1st Cir. 2007). Moreover, as interpreted by  
15 this court in a case involving a constructive discharge, a hostile work environment leading up to the  
16 adverse employment action may be considered under Law 100 as well as under the ADEA. Flamand  
17 v. American International Group, Inc., 876 F. Supp. 356 (1994). Despite dismissing the motion for  
18 summary judgment, the court in Flamand considered constructive discharge (or “new working  
19 conditions . . . so difficult or unpleasant that a reasonable person in the employee’s shoes would .  
20 . . [feel] compelled to resign”) as a valid claim under Law 100. Id. at 369 (alteration in original).  
21 Similarly, on another occasion this court considered a hostile work environment claim under Title  
22 VII of the Civil Rights Act, 42 U.S.C. § 2000, et seq. and recommended the same solution under  
23 Puerto Rico’s Law 100. Santos v. Banco Santander, 363 F. Supp. 2d 56, 62 n.2 (2005). This case  
24 law compels the court to reinstate Plaintiff’s Law 100 claim.

25 As to Defendants’ arguments that Plaintiff did not address or oppose Defendants’ requests  
26 for dismissal regarding Law 100 when she had the opportunity to do so, the court finds them to be  
27 without merit since Plaintiff addressed the local claims in her opposition to the motion for summary  
28 judgment (Docket No. 92 at 5).

2 **III. Conclusion**

3 In its previous opinion and order, the court concluded that Plaintiff created an issue of  
4 material fact as to whether she was subjected to a hostile work environment fostered by age-based  
5 discrimination. Therefore, her Law 100 claim must survive summary judgment. For the foregoing  
6 reasons, the court **GRANTS** reconsideration of its previous opinion and order on this ground.

7 **SO ORDERED.**

8 In San Juan, Puerto Rico this 3rd day of June, 2010.

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*S/Gustavo A. Gelpí*

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GUSTAVO A. GELPÍ

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United States District Judge

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