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UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

LUZ CASTRO MENDRE,

Plaintiff,

v.

HUMANA HEALTH PLANS OF
PUERTO RICO, Inc.,

Defendant.

Civil No. 12-1946 (JAF)

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OPINION AND ORDER

7 Plaintiff Luz Castro Mendre (“Castro-Mendre”) sued her employer, Defendant
8 Humana Health Plans of Puerto Rico, Inc. (“Humana”) for sex discrimination and
9 retaliation under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §
10 2000e *et seq.* and its local counterparts, Law 100, 115, and Articles 1802 and 1803 of the
11 Puerto Rico Civil Code. (Docket No. 1.) On June 10, 2014, we granted summary
12 judgment in favor of Humana, dismissing Castro-Mendre’s federal law claims with
13 prejudice and dismissing her Commonwealth law claims without prejudice. (Docket
14 Nos. 122, 123.) On July 7, 2014, Castro-Mendre filed a motion for reconsideration.
15 (Docket No. 125.) Humana responded on July 22, 2014. (Docket No. 126.) Castro-
16 Mendre replied on August 2, 2014. (Docket No. 130.) For the following reasons, we
17 deny the motion for reconsideration.

18 Castro-Mendre suggests that we misstated the facts of the case. However, her ten-
19 page recitation of the “correct” facts does not include a single record citation. (*See*
20 Docket No. 125.)

1 Castro-Mendre also argues that her claims are not time-barred. She relies on the
2 theory of equitable estoppel by stating that she withdrew her first administrative
3 complaint “for the *quid pro quo* that the harassment would stop.” (Docket No. 125 at
4 12.) That administrative complaint was closed and dismissed with prejudice. (*See*
5 Docket No. 126.) Castro-Mendre does not cite to any record of a promised exchange for
6 withdrawing her first complaint. (*See* Docket No. 125.)

7 Castro-Mendre also argues that Humana is vicariously liable for Alberto Lopez’s
8 conduct because he was her supervisor and docked her pay. (Docket No. 125 at 14.) At
9 the time he sent lewd pictures, it is uncontested that he was not her supervisor. (*See*
10 Docket No. 125.) Castro-Mendre provides no record citation to any evidence that her pay
11 was docked when he became her supervisor six months later. (Docket No. 125.)

12 Castro-Mendre also argues that “the retaliation timeline began when Humana
13 reprimanded Ms. Castro for dressing provocatively in response to her complaint about
14 Mr. Lopez, and it never ceased.” (Docket No. 125 at 16)(emphasis in original). After
15 Castro-Mendre filed her complaint, Humana’s stateside human resources department
16 conducted a full investigation into the work environment. Castro-Mendre was one of
17 eleven employees who received some sort of coaching or improvement plan as a result of
18 the investigation. (Docket No. 62-1 at 8-9.) A reasonable jury would not find that she
19 was singled out for her complaint as one of eleven employees to receive coaching.
20 Castro-Mendre also argues that she never forged signatures, and that this was therefore a
21 pretext for retaliation. (Docket No. 125.) However, Humana presented detailed evidence
22 of her forgeries in its original summary judgment motion. (Docket No. 62-1 at 12- 20.)

1 Once Humana articulated a “legitimate, nondiscriminatory reason for the adverse
2 employment decision” the burden of proof remained with Castro-Mendre to show
3 “unassisted by the original inference of discrimination, that the employer’s proffered
4 reason is actually a pretext for discrimination of the type alleged.” *Mesnick v. Gen. Elec.*
5 *Co.*, 950 F.2d 816, 823 (1st Cir. 1991). She failed to carry this burden.

6 For the foregoing reasons, Castro-Mendre’s motion for reconsideration (Docket
7 No. 125) is **DENIED**.

8 **IT IS SO ORDERED.**

9 San Juan, Puerto Rico, this 5th day of September, 2014.

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S/José Antonio Fusté
JOSE ANTONIO FUSTE
U. S. DISTRICT JUDGE