

December 20, 2006

Charles R. Fulbruge III  
Clerk

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-30518  
Summary Calendar

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MARY MAHL,

Plaintiff-Appellant,

versus

NOKIA, INC.,

Defendant-Appellee.

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On Appeal from the United States District Court  
for the Eastern District of Louisiana  
No. 05-5243

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Before JONES, Chief Judge, and JOLLY and OWEN, Circuit Judges.

PER CURIAM:\*

Mary Mahl appeals the district court's grant of summary judgment to Nokia, Inc. ("Nokia") on her Louisiana Employment Discrimination Law and intentional infliction of emotional distress claims. Because we agree with the district court's reasoning, we AFFIRM.<sup>1</sup>

On her employment discrimination claim, Mahl is unable to present a genuine issue of material fact as to whether Nokia

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

<sup>1</sup> Additionally, Nokia's motion to strike new arguments raised by Mahl in her reply brief to this court is GRANTED.

employed the requisite number of employees. See LA. REV. STAT. 23:302(2). Mahl's affidavit that "to her knowledge" Nokia employed "numerous" people is insufficient to withstand summary judgment. See Warfield v. Byron, 436 F.3d 551, 559 (5th Cir. 2006) ("Conclusory allegations and unsubstantiated assertions, however, are not competent summary judgment evidence.").

Mahl also claims intentional infliction of emotional distress based on the fact that Nokia sent her notice of termination only days after Hurricane Katrina. As found by the district court, although the precise timing is unfortunate, this does not rise to the level of extreme and outrageous conduct required to state such a claim. See White v. Monsanto Co., 585 So.2d 1205 (La. 1991).

The district court's grant of summary judgment to Nokia is AFFIRMED.