

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

VANESSA TREMINIO,

Plaintiff,

v.

CASE NO.: 3:22-cv-174-MMH-PDB

CROWLEY MARITIME CORPORATION,
and JUAN EMILIO BLANCO,

Defendants.

**PLAINTIFF'S RESPONSE IN OPPOSITION TO CROWLEY MARITIME
CORPORATION'S MOTION FOR SUMMARY JUDGMENT**

Plaintiff VANESSA TREMINIO opposes CROWLEY MARITIME CORPORATION'S Motion for Summary Judgment and requests it be denied. Further, as shown below, under Fed. R. Civ. P. 56(f) this Court has the authority to enter summary judgment in favor of the non-movant. Accordingly, this Court should instead enter summary judgment in favor of the Plaintiff on all her claims.

Summary Judgment Standard

As this Court has recently stated, "The party seeking summary judgment bears the initial burden of demonstrating to the court, by reference to the record, that there are no genuine issues of material fact to be determined at trial." *Belcher v. Aramark Sports & Entm't Services, LLC*, 616 F. Supp. 3d 1294, 1300 (M.D. Fla. 2022) (Howard, J.) (citing *Clark v. Coats & Clark, Inc.*, 929 F.2d 604, 608 (11th Cir. 1991)). In making that determination, a court must view the evidence "in the light most favorable to the opposing party." *Adickes v. S. H. Kress & Co.*, 398 U.S. 144, 157 (1970).

At the summary judgment stage, the judge's function is not to weigh the evidence and determine the truth of the matter but "to determine whether there is a genuine issue for trial." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986); see e.g., *CEVA Logistics v. Nat'l Distributors, Inc.*, No. 3:13-cv-01261-MMH-JBT, 2015 WL 136041, at *2 (M.D. Fla. Jan. 9, 2015).

I. RESPONSE TO CROWLEY'S FACTUAL BACKGROUND¹

Plaintiff does not dispute that in 2012 she was hired by Crowley Shared

¹ Crowley's Motion for Summary Judgment (Doc. 88) does not contain a Statement of Undisputed Material Facts. Plaintiff's response addresses the section in Crowley's Mot. (Doc. 88) titled "II. RELEVANT FACTUAL BACKGROUND," parts A-I, pp. 2-9.

Services, S.A. de C.V., a subsidiary of Crowley Maritime Corporation, but transferred to the entry level role of Coordinator in the Inland Department (“Inland”) in 2017, reporting to Defendant Juan Blanco as her supervisor. When Plaintiff joined the Inland Department, Blanco “continuously” and baselessly denigrated her to other team members by calling Plaintiff a “whore” and a “liar,” insisting that she could not be trusted, and predicting “she was going to create problems within the team.”²

A. September 2017 training trip to Jacksonville.

Plaintiff does not dispute that Crowley sent her on a DFTS training trip to Jacksonville with Blanco and Luis Santamaria in September 2017.

Plaintiff disputes that “Blanco did not harass Plaintiff and she made no complaints about the trip.” During the September 2017 training trip, Blanco tried to force the door to enter Plaintiff’s hotel room.³ Blanco called Mr. Santamaria a “faggot,”⁴ forced Plaintiff and Mr. Santamaria to drink alcohol, and threatened Mr. Santamaria that if he was not “wasted until you vomit,” he would have to drive back to Miami because Mr. Santamaria was afraid of driving in the U.S.”⁵

On the last night of the September 2017 DFTS training trip, Blanco was highly intoxicated and belligerent, and Plaintiff and Mr. Santamaria were so afraid that they locked Blanco out of Plaintiff’s hotel room, poured the remaining alcohol down the drain, and disconnected the hotel room’s phone.⁶ Blanco “got aggressive when he was

² June 12, 2023 Deposition of Blanca Hernandez (“Hernandez Depo.”) Doc. 89-6 at 73-75.

³ May 3, 2023 Examination Under Oath of Luis Santamaria (“Santamaria EUO”), Exhibit 5 at 46-49.

⁴ March 27, 2023 Deposition of Vanessa Treminio (“Treminio Depo.”) Doc. 89-1 at 319.

⁵ Treminio Depo. Doc. 89-1 at 317-320; Santamaria EUO, Exhibit 5 at 46

⁶ Treminio Depo. Doc. 89-1 at 319.

drinking.”⁷ Mr. Santamaria was afraid Blanco would sexually attack Plaintiff that night.⁸ Plaintiff reported Blanco’s misconduct to Arthur LaMoureaux.⁹

B. Blanco allegedly groped Plaintiff in an elevator.

After the September 2017 DFTS training trip to Jacksonville, but prior to her November 2017 trip, Blanco groped and shook her breast in an elevator in the Crowley office in San Salvador.¹⁰ After sexually assaulting her, Blanco laughed.¹¹ Plaintiff told him, “Dude, you’re so wrong with me...I’m not that type of girl.”¹² She immediately reported the sexual assault to Crowley HR Manager, Jacqueline Najera,¹³ who discredited the Plaintiff and threatened her and her child.^{14 15} Plaintiff showed Najera the imprints that Blanco made on her breast¹⁶ and pleaded with Najera that she did not “feel safe” to travel with Blanco.¹⁷ Najera gave Plaintiff the options to accompany the man who had just sexually assaulted her on an international trip, resign, or be fired.¹⁸ Najera further threatened “blacklisting” when potential employers called for references, and threatened that Crowley would give bad feedback and sabotage Plaintiff’s chances of getting another job.¹⁹

⁷ Santamaria EUO, Ex. 5 at 49.

⁸ Santamaria EUO, Ex. 5 at 70.

⁹ Treminio Depo. Doc. 89-1 at 317, 320.

¹⁰ June 27, 2023 Deposition of Ayesha Diaz-Muñoz (“Ayesha Depo.”) Doc. 89-7; Treminio Depo. Doc. 89-1 at 76-79; Santamaria EUO Ex.5 at 66-67.

¹¹ Treminio Depo. Doc. 89-1 at 79.

¹² Treminio Depo. Doc. 89-1 at 79.

¹³ Treminio Depo. Doc. 89-1 at 76-79.

¹⁴ Treminio Depo. Doc. 89-1 at 82.

¹⁵ Treminio Depo. Doc. 89-1 at 83.

¹⁶ Treminio Depo. Doc. 89-1 at 86.

¹⁷ Treminio Depo. Doc. 89-1 . at 83.

¹⁸ Treminio Depo. Doc. 89-1 . at 83.

¹⁹ Treminio Depo. Doc. 89-1 . at 84.

Plaintiff left Najera's office in shock and returned to her cubicle on the 5th floor to find Blanco leaning on her desk, waiting for her. Blanco forcefully grabbed and squeezed Plaintiff's arm, threatened her and her young son, and warned Plaintiff that she did not want Blanco as an enemy.²⁰ Plaintiff was "terrified" and told him, "You're hurting me."²¹ Blanco retorted that if she did not "start to collaborate," he would ensure that she would not be able to get another job anywhere in El Salvador, and would provide negative feedback to any future employers and to all of Crowley's internal clients.²² Blanco squeezed Plaintiff's arm so hard that he left significant bruising that was noticed several days later by a co-worker.²³

Plaintiff was speechless as Blanco walked away laughing. It occurred to her that Najera must have told Blanco everything, because their words were the same.²⁴

C. November 2017 training trip to Jacksonville.

Plaintiff does not dispute that on November 5, 2017, she and Evelyn Vasquez traveled to Jacksonville on another DFTS training trip; Blanco was already in Jacksonville; the three employees stayed at the same hotel and worked out of Crowley's Regency office; and they were scheduled to fly back to El Salvador together.

D. EthicsPoint Complaints regarding Blanco.

Plaintiff does not dispute that on November 7, 2017, at least 2 days before Plaintiff was raped in Jacksonville, Crowley received EthicsPoint complaint, Case No.

²⁰ Treminio Depo. Doc. 89-1 . at 89.

²¹ Treminio Depo. Doc. 89-1 . at 89.

²² Treminio Depo. Doc. 89-1 . at 89.

²³ Treminio Depo. Doc. 89-1 . at 92.

²⁴ Treminio Depo. Doc. 89-1 . at 89-90.

280²⁵, about Blanco. The complainant was Jane Doe #1, the Plaintiff in a related sex trafficking case pending in this Court against the same two Defendants under Case No. 3:23-cv-383. On November 9, 2017, Crowley received two more EthicsPoint complaints about Blanco, Case Nos. 282²⁶ and 283.²⁷

Plaintiff disputes that the November 7 and 9, 2017 EthicsPoint complaints were the first documented complaints about Blanco. Plaintiff reported the assault in the elevator to Najera *before* the November 5, 2017 trip to Jacksonville. *See* n. 13 and ¶ C *supra*. Crowley does not dispute that Plaintiff testified to that effect. Crowley’s Mot. (Doc. 88, p.3).

Plaintiff disputes that on or about November 10, 2017, Matute conducted an investigation of the EthicsPoint complaints made against Blanco. The **first** communication Matute had with the complainant of EthicsPoint Case No. 280 was November 16, 2017—nine days after the anonymous report was made.²⁸

It is undisputed that Crowley had an obligation to investigate all complaints, regardless of the nature of the complaint, and to “do something about it.”²⁹

E. November 9, 2017 alleged assault of Plaintiff

Late evening November 9th–10th, 2017, Blanco broke into Plaintiff’s hotel room while she was sleeping and raped her. This was *after* Case No. 280, and either the same day as (or one day after) Case Nos. 282 and 283 were filed. Plaintiff did not

²⁵ Attached as Exhibit 1.

²⁶ Attached as Exhibit 2.

²⁷ Attached as Exhibit 3.

²⁸ Francheska Bensen 30(b)(6) Dep., Doc. 89-8 at 157:12–17.

²⁹ LaMoureaux Dep., Doc. 89-2 at 14.

call the police, tell anyone, or report the alleged rape on the same late evening or early morning the rape happened. The following morning, Plaintiff, Blanco, and Vasquez drove together to Crowley's office where she met with Jose Lopez and a blond woman Lopez told her was from HR. Plaintiff told them that Blanco raped her. Lopez said it was "not a big deal," refused to help her file a police report, threatened her job, and threatened "legal actions" against her³⁰ if she talked about being raped. Plaintiff disputes Crowley's credibility assessments. *See Liberty Lobby*, 477 U.S. at 249.

F. Plaintiff's conversations with Ayesha Diaz and Arthur LaMoureaux

Days after the alleged rape, on or about November 13, 2017, Crowley flew Plaintiff to Puerto Rico, where she told Manager Ayesha Diaz about the alleged rape and the sexual assault in the elevator.³¹ In late November or early December 2017, at Diaz's suggestion, Plaintiff contacted Arthur LaMoureaux, Vice President of Internal Audit, Ethics and Compliance. Plaintiff reported the rape to LaMoureaux.³²

Plaintiff informed LaMoureaux of the alleged elevator assault, conversations with Najera, and the alleged rape. LaMoureaux told Plaintiff he would investigate. LaMoureaux later testified it was not within his "purview" to investigate and that sexual assault allegations were handled through HR.³³

However, it is undisputed that LaMoureaux violated Crowley policies and procedures by not reporting Plaintiff's allegations of sexual assault and rape to HR so

³⁰ Treminio Depo. Doc. 89-1 . at 167-169.

³¹ Treminio Depo. Doc. 89-1 . at 179:8-19

³² Answers to Interrogatories 4(a), 4(f), 9(a), 9(g),10; LaMoureaux Dep. Doc. 89-2 at 33:4-34:13; 229:4-8; 231:17-23; 246:13-23; 283:16-285:2.

³³ May 12, 2023 Deposition of Arthur LaMoureaux ("LaMoureaux Depo.") Doc. 89-2 at 35:9-19.

HR could investigate.³⁴

G. Plaintiff did not report Bianco's behavior or alleged assault to Matute

Plaintiff does not dispute that when Matute asked if she had something to say as part of an investigation into Blanco, Plaintiff said “No” because she and Luis Santamaria had already been threatened and intimidated by Blanco not to say anything to the “HR bitches.”³⁵

Plaintiff reported the alleged elevator breast-groping incident to Najera, Diaz, and Santamaria,³⁶ and the rape in Jacksonville to Lopez, Santamaria, Diaz, and LaMoureaux.³⁷

H. Blanco's employment was terminated by Crowley

Plaintiff does not dispute that Matute sent an “EthicsPoint Case Report”³⁸ to Tiffany King on December 20, 2017. Plaintiff does not dispute that female employees reported to Crowley that Blanco made inappropriate sexual comments, which were explicit and made them feel offended and harassed, and that they had been afraid of losing their jobs if they spoke up. Two mentioned that this was reported to local HR. Matute's report concluded that there was an “evident problem” with Juan Blanco.³⁹

³⁴ Response to Request for Admissions No. 17; LaMoureaux Depo. at 181:17–19; 182:6–8; 182:15–184:2; May 17, 2023 Deposition of Tiffany King (“King Depo.”) Doc. 89-3 at 197-200; Bensen 30(b)(6) Depo. Doc. 89-8 at 137-140.

³⁵ Treminio Depo. Doc. 89-1 . at 184:1–185:11.

³⁶ Treminio Depo. Doc. 89-1 . at 81-88; Ayesha Depo. at 62; Santamaria EUO, Ex. 5 at 66-67.

³⁷ Treminio Dep. at 164-168; Santamaria EUO, Ex. 5 at 65-66; Diaz Dep. at 33-34; LaMoureaux Dep. Doc. 89-2 at 282-284.

³⁸ Bensen Decl., Doc. 89-9, pp. 6-8.

³⁹ Responses to Requests for Admissions, 21–23.

Plaintiff disputes that King recommended Blanco be terminated. It is undisputed that Ms. Matute's December 20, 2017 Ethics Point Case Report contained the "recommendation" that, "*Immediate* actions need to be taken with Juan Emilio Blanco."⁴⁰ However, Blanco was not *immediately* terminated in December 2017. In fact, Crowley allowed Blanco to again travel on an international business trip with another female subordinate in January of 2018.⁴¹ Blanco was not terminated until after he sexually attacked another woman on that subsequent DFTS training trip, and she lodged an EthicsPoint complaint, Case No. 297,⁴² on January 23, 2018, alleging that Blanco told her that because he was a supervisor, he could "have sex with whoever he wanted."⁴³ After receiving Case No. 297, King stated, "We can't afford to have another complaint about Juan [Blanco]. It appears that we aren't taking the employee complaints serious."⁴⁴ Blanco was terminated the next day on January 24, 2018.

I. Several years later, Plaintiff was terminated for poor performance.

Plaintiff does not dispute that she continued to work for Crowley for another three years, or that she was terminated on January 14, 2021, with poor performance cited by Crowley as the reason for her termination.

II. Plaintiff's Statement of the Undisputed Material Facts

1. At all material times, Plaintiff was, and is currently, a citizen and resident of

⁴⁰ Responses to Requests for Admissions, 24 (emphasis added).

⁴¹ Response to RFA No. 29

⁴² Exhibit 4.

⁴³ Crowley's Mot. p. 8; Bensen 30(b)(6) Dep. Doc. 89-8 at 301:1-9.

⁴⁴ Jan. 23, 2018 email from Tiffany King to Senobia Matute re: Ethics Point Case No. 297 (Doc. 89-2 p. 158).

San Salvador, El Salvador.⁴⁵

2. Plaintiff and other employees in El Salvador were considered Crowley employees, consistent with Crowley's "One Crowley, One Team" philosophy.⁴⁶

Former Crowley global V.P. of Human Resources, Tiffany King stated, "I don't know why anybody would need to tell them that they were Crowley employees, but they were Crowley employees."⁴⁷

3. In 2017, when many of the events in this lawsuit occurred, El Salvador was the most dangerous country in the world according to *The Economist*. "El Salvador was the world's most violent country, and its capital, San Salvador was the world's most murderous city."⁴⁸ The Crowley office where Plaintiff worked was therefore located in the most dangerous city in the most dangerous country in the world.

4. LaMoureux testified that Crowley's employees in El Salvador (and other Central American countries) "felt that things could happen...**people, you know, disappear.**"⁴⁹ LaMoureux continued, "People are very afraid in Central America, you know, that if you -- **if somebody finds out that you ratted on them or whatever, that they could get killed,** you know, that they could be harmed **or their families could be harmed** or things like that."⁵⁰

⁴⁵ Treminio Depo. Doc. 89-1 . at 10-11.

⁴⁶ King Depo. Doc. 89-3 at 68.

⁴⁷ King Depo. Doc. 89-3 at 68.

⁴⁸ The Economist, "The world's most dangerous cities," March 31, 2017

(<https://www.economist.com/graphic-detail/2017/03/31/the-worlds-most-dangerous-cities>), accessed August 14, 2023.

⁴⁹ LaMoureux Depo. Doc. 89-2 at 102.

⁵⁰ LaMoureux Depo. Doc. 89-2 at 103.

5. In approximately November 2016, Crowley was awarded a multi-billion dollar logistics contract called the Defense Freight Transportation Services (“DFTS”) contract.⁵¹ At that time, Crowley was looking to outsource more and more tasks and procedures to El Salvador to save substantial costs because it was a great monetary return on investment.⁵²

6. Plaintiff was twice flown by Crowley from El Salvador to Jacksonville for training on implementing the DFTS contract. Plaintiff’s direct supervisor, Blanco, was present on both trips.⁵³

7. During 2016, Najera reported directly to Zoraida Jirau, Crowley’s “Director, International HR,” who was based in the United States. During 2017 Najera’s “2nd level supervisor” was Tiffany King, who was based in Jacksonville.⁵⁴

8. Before traveling to Jacksonville on November 5, 2017, Plaintiff pleaded with Najera at least three times not to send her on a trip with Blanco because she did not feel safe. §I. B., *supra*. In desperation, Plaintiff reminded Najera that “safety” was one of Crowley’s corporate values. Najera was “mad” and told Plaintiff, “Vanessa, I already told you either you go to the trip or you will get fired. End of the discussion.”⁵⁵

9. In early 2017, many months prior, Blanco obtained a private pornographic “sex tape” of another of his female subordinates and shared it via group chats and text

⁵¹ August 2, 2023 Declaration of Francheska Bensen (“Bensen Decl.”) Doc. 89-9 at 1.

⁵² Lopez Dep., Doc. 89-4 at 16:14-17:11.

⁵³ Treminio Depo. Doc. 89-1 . at 98-101,115; Lopez Depo. at 29-30.

⁵⁴ 2017 performance evaluation of Jacqueline Najera.

⁵⁵ Treminio Depo. Doc. 89-1 . at 123-124.

messages with his employees.⁵⁶ Blanco “told everyone about that video” and “he actually sent the link to that video to the WhatsApp group so everyone could see it.”⁵⁷ Blanco told his employees that he shared the video of the victim with her new co-workers so that they could “get to know her better.”⁵⁸

10. Blanco’s direct supervisor, Jose Lopez, was located in Jacksonville.⁵⁹ Blanco told Lopez that the woman in the pornographic video was a Crowley employee.⁶⁰ When Blanco attempted to show Lopez the sex tape, Lopez told Blanco, “Hey, listen, don’t do that.”⁶¹ However, Lopez did not report Blanco to HR, claiming, “HR probably was aware of that already.”⁶²

11. After learning that Blanco was circulating a private revenge sex tape of a female Crowley employee to his subordinates, Lopez continued to allow Blanco to take international business trips to Jacksonville with female Crowley employees, including Plaintiff.⁶³ Blanco selected Plaintiff for the November 2017 DFTS training trip to Jacksonville, and Lopez then “approved” or ratified Blanco’s decision,⁶⁴ *knowing* that Blanco had earlier that same year circulated a revenge pornographic video/sex tape of a female Crowley employee to his subordinates within the Crowley offices.⁶⁵

⁵⁶ Hernandez Depo. Doc. 89-6 at 26; Santamaria EUO, Ex. 5 at 25-30.

⁵⁷ Hernandez Depo. Doc. 89-6 at 26-27.

⁵⁸ Hernandez Depo. Doc. 89-6 at 27.

⁵⁹ Lopez Depo. Doc. 89-4 at 150.

⁶⁰ Lopez Depo. Doc. 89-4 at 204-205.

⁶¹ Lopez Depo. Doc. 89-4 at 203.

⁶² Lopez Depo. Doc. 89-4 at 205.

⁶³ Lopez Depo. Doc. 89-4 at 203-205.

⁶⁴ Lopez Depo. Doc. 89-4 at 124.

⁶⁵ Lopez Depo. Doc. 89-4 at 203-205.

12. Blanco also spoke of procuring female Crowley employees for romantic and/or sexual purposes for Jose Lopez upon his visits to the El Salvador office.⁶⁶

13. In early 2017, Lopez and his supervisor, Vice President Robert Weist, went to El Salvador and attended a team dinner at a restaurant near the Boqueron Volcano. Blanco forced the sex tape victim—against her wishes—to ride to the dinner with Mario Granada, a male Inland team member who was sexually harassing her by talking about the sex tape and repeating phrases she had uttered in the sex tape.⁶⁷ By the time she arrived at the dinner, the victim was in tears. She complained to Blanco about the sexual harassment, but Blanco laughed and told her “that she needed to laugh about it, that she was taking it too serious, and just to get along with that.”⁶⁸ Blanco also told her that she didn’t know how to properly react to the extreme sexual harassment because she had a “vagina oxidada,” or a “rusty vagina.”⁶⁹

14. The victim then made a formal complaint with Najera in HR.⁷⁰ Within weeks of complaining, the victim was fired on the pretext of poor performance.⁷¹

15. Other employees felt intimidated by this act of retaliation. “Oh, I feel so sad about her because, again, she was good. She was always respectful...and doing her job...and you start asking yourself, oh, will I be the next if I start complaining against HR...?”⁷² The employee continued, “He [Blanco] was making comments of, ‘I already

⁶⁶ Hernandez Depo. Doc. 89-6 at 39.

⁶⁷ Hernandez Depo. Doc. 89-6 at 29-30.

⁶⁸ Hernandez Depo. Doc. 89-6 at 30.

⁶⁹ Hernandez Depo. Doc. 89-6 at 31.

⁷⁰ Hernandez Depo. Doc. 89-6 at 32.

⁷¹ Hernandez Depo. Doc. 89-6 at 32-33.

⁷² Santamaria EUO, Ex. 5 at 33.

told a white guy,'...for us to understand that he...had Jose Lopez support...and he [Lopez] was reporting directly to Bob Weist, who was the vice president of transportation. So we felt, you know, like, okay, we have nothing to do against these two guys, because they have that support..."⁷³

16. Some of Blanco's workplace misconduct reported to Crowley in writing included: 1) Referring to female employees by the names of pornstars; 2) Referring to a female employee as "fuck face"; 3) Referring to Fridays in the office as "Viernes de Puterias" or "Slutty Fridays"; 4) When a female employee went on sick leave, telling her he believed her illness may have been a "prohibit illness," i.e. a sexually transmitted disease; 5) When a female employee received flowers from her boyfriend, telling her to "**prepare your throat for tonight**, you have to pay the price of those flowers"; 6) Telling a female employee with a ponytail, "I am sure you like it that way and your boyfriend too, it's easier to grab you"; 7) Telling female employees "boyfriends like to put their girls on their knees"; 8) Insulting and denigrating male homosexual employees.⁷⁴

17. "One of the female employees mentioned that JB [Blanco] have made inappropriate comments in front of Jose Lopez, and he [Lopez] only laughs."⁷⁵

18. Regarding Najera, one former Inland team member testified, "We didn't trust her at all because there were some situations...that other people report to her and she

⁷³ Santamaria EUO, Ex. 5 at 34-35.

⁷⁴ Bensen Decl., Doc. 89-9, p. 8.

⁷⁵ Bensen Decl., Doc. 89-9, p. 8.

didn't do anything. Or the person...receive, like, retaliation after reporting.”⁷⁶ He continued, “It was...a corrupt feeling that she would do anything because she probably was align with Jose Lopez and probably with Juan Blanco for sure.”⁷⁷

19. The former employee testified it was his understanding that Crowley was supposed to have the same or similar HR policies across all its offices. However, he said, “my perception is after watching all those behaviors or knowing all those behaviors from the local HR [in El Salvador], my sense was okay...they don't care at all about El Salvador...I bet that if something similar to this...happen in the U.S., probably certainly they going to do something.”⁷⁸

20. Crowley employee, Heitzel Monroy, who is currently on Crowley's Internal Audit team, testified, “when they came to me, they told me that they wanted to talk to me **because they didn't trust Jacqueline**, so that's why they wanted me to know what was happening.”⁷⁹ Monroy said, “...when I came to Crowley, people started talking to me. And in some cases they came to me to report things that...were HR-related **because they didn't trust Jacqueline Nájera**...So that's the way that in the past we used to do things, **when they didn't trust Jacqueline**.”⁸⁰

21. Another former Inland team member, Blanca Hernandez, testified how Blanco made crude comments to her about her sex life.⁸¹

⁷⁶ Santamaria EUO, Ex. 5 at 93-94

⁷⁷ Santamaria EUO, Ex. 5 at 94.

⁷⁸ Santamaria EUO, Ex. 5 at 95-96.

⁷⁹ May 25, 2023 Deposition of Heitzel Monroy (“Monroy Depo.”) at 188.

⁸⁰ Monroy Depo. at 106.

⁸¹ Hernandez Depo. Doc. 89-6 at 45-52

22. It is undisputed that Crowley received three EthicsPoint Complaints (Case Nos. 280, 282, 283) about Blanco in two days from November 7 to November 9, 2017, prior to Plaintiff's alleged rape. §I. D., *supra*. This raised eyebrows.⁸² It was unusual to have three EthicsPoint complaints about the same person in such a short span of time.⁸³

23. LaMoureux and King were notified contemporaneously when EthicsPoint complaints 280, 282, and 283 were entered on Crowley's system.⁸⁴

24. Crowley did nothing in response to EthicsPoint Case No. 280 for at least nine days after LaMoureux, King, Matute, and others received notification that an employee was reporting Blanco's inappropriate sexual misconduct in the workplace.⁸⁵

25. In an encounter similar to the one Plaintiff reported having when trying to report her rape to Jose Lopez in Jacksonville, an Inland Department team member reported to Heitzel Monroy that when he or she tried to report sexual harassment to Jose Lopez in private, "**Jose Lopez got upset and asked her to leave the conference room.**"⁸⁶

26. In his deposition, LaMoureux testified that when Plaintiff reported the alleged rape to him, "I remember she was sentimental and...she was broken. She seemed to be crying...You know, she was hurting."⁸⁷ When asked if he believed Plaintiff, LaMoureux said, "I did at the time...I thought she was sincere, you know."⁸⁸

⁸² LaMoureux Depo., Doc. 89-2 232:23–25.

⁸³ King Depo., Doc. 89-3 at 149:15–18.

⁸⁴ King Dep. Doc. 89-3 at 145:3–8; 148:1–7; LaMoureux Dep. 98:9–25.

⁸⁵ Bensen 30(b)(6) Dep., Doc 89-8 at 157:12-23; 165:5-15; 307:4-11.

⁸⁶ May 2, 2018 email from Matute to Tiffany King and Robert Weiss, Allegation No. 28.

⁸⁷ LaMoureux Dep. Doc. 89-2 at 285:9–14.

⁸⁸ LaMoureux Dep. Doc. 89-2 at 223:17-20.

III. MEMORANDUM OF LAW

Crowley is not entitled to summary judgment as a matter of law on any of Plaintiff's claims of sex trafficking and forced labor. Despite Crowley's unsubstantiated denials, the evidence obtained in discovery shows that numerous Crowley employees, in the United States and Central America, were for years involved in enabling and covering-up the workplace sexual misconduct of Defendant Blanco, including by retaliating against those who voiced complaints. For years after Plaintiff reported to Jose Lopez and Arthur LaMoureaux that Blanco raped her in Jacksonville, Crowley then engaged in a coverup⁸⁹ of Plaintiff's alleged rape. Arthur LaMoureaux—one of Crowley's most senior executives—openly admits to violating Crowley's own policies by covering-up Plaintiff's allegations that she was trafficked and raped by her supervisor, Blanco.⁹⁰ Today, LaMoureaux is still employed by Crowley.⁹¹

Instead of taking responsibility for their actions, LaMoureaux and Crowley seek to blame the victim for this cover-up by claiming the Plaintiff “begged” LaMoureaux to keep her rape and assault allegations confidential and that Plaintiff somehow “swore [LaMoureaux] to secrecy.”⁹² In fact, Ayesha Diaz testified that after Plaintiff reported the rape allegation to her in Puerto Rico not long after Plaintiff's November trip to Jacksonville, Diaz called LaMoureaux and “told him exactly what she said to

⁸⁹ “Cover-up,” “a usually concerted effort to keep an illegal or unethical act or situation from being made public.” Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/cover-up>. Accessed 22 Aug. 2023.

⁹⁰ LaMoureaux Depo. Doc. 89-2 35:6; 36:17; 179:15; 181:4,6,25; 183:7,8,10,16.

⁹¹ LaMoureaux Depo. Doc. 89-2 at 77.

⁹² LaMoureaux Depo. Doc. 89-2 at 221.

me.”⁹³ According to Diaz, on that call LaMoureaux “asked me to tell her...to communicate with him directly...so he could start an investigation.”⁹⁴ It was an “investigation” that Crowley and LaMoureaux now claim never took place.

A. Crowley is liable for sex trafficking in violation of the TVPRA

1. “Commercial Sex Act”

Crowley engaged in the sex trafficking of Plaintiff as both a perpetrator and beneficiary, and the Court has noted “that Treminio likely does not need to allege that Crowley’s venture with Blanco was primarily or solely engaged in sex trafficking or that Crowley benefitted specifically from the sex trafficking that occurred.” Order, (Doc. 34, p. 14, n.4) (citing *Doe #1 v. Red Roof Inns, Inc.*, 21 F.4th 714, 724–25 (11th Cir. 2021); *id.* at 729–30 (Jordan, J., concurring)).

Plaintiff must establish that “means of force, threats of force, fraud, coercion ... or any combination of such means [would] be used to cause [her] to engage in a commercial sex act.” 18 U.S.C. § 1591(a). Crowley suggests that there is no evidence that Plaintiff’s continued employment with Crowley was causally related to her alleged sexual assault. Crowley argues, “There is no evidence that Plaintiff was told by Blanco, or any other Crowley employee, that if she did not engage in sexual acts with Blanco she would be terminated, nor is there any evidence that Plaintiff was promised employment benefits for engaging in sexual acts with Blanco.” Mot. p.11. However, the undisputed material facts show otherwise.

⁹³ Ayesha Depo. Doc. 89-7 at 24.

⁹⁴ Ayesha Depo. Doc. 89-7 at 30.

At the Motion to Dismiss stage the Court found there were allegations that Plaintiff received several things of value. Order, Doc. 34, pp. 9-10. Now, in discovery, Plaintiff has obtained evidence to prove her allegations of: continued employment, §I.B. n.19, 23 *supra*, (Blanco told Plaintiff to “start to collaborate”); relief from the threats that Crowley would give extremely negative feedback when contacted for references, §I.B. n. 20 *supra*, (Najera threatened “blacklisting”); and career advancement that would not have happened without the trip to Jacksonville (Plaintiff continued her employment for several more years, was promoted, and received multiple raises)⁹⁵.

Crowley also received a thing of value—outsourcing of more and more DFTS tasks to El Salvador, at a substantial cost savings from what it cost for comparable labor in the United States, leading to an increase in profits on the contract.

Viewing this evidence and all reasonably drawn factual inferences in the light most favorable to the nonmoving party, and resolving all reasonable doubts about the facts in favor of the non-movant, *Rioux v. City of Atlanta*, 520 F.3d 1269, 1274 (11th Cir. 2008), there is ample evidence that Plaintiff was caused to engage in a commercial sex act. The evidence is such that a reasonable jury could find that Plaintiff’s receipt of these “things of value” was “on account of” Blanco’s alleged rape, and return a verdict for the Plaintiff.

a. Crowley’s beneficiary liability under the TVPRA

⁹⁵ Treminio Dep. at 164, 187; Bengan Decl. Exh. B

To “participate in a venture” under Section 1595(a), a defendant must take part in a common undertaking involving risk or profit. *Red Roof Inns*, 21 F.4th at 725. Liability can attach under § 1595 when an individual participates in a venture that is not specifically a sex trafficking venture. Rather, as the Eleventh Circuit has acknowledged, the alleged venture can be a ‘commercial venture[]’ like running or expanding a business. While a ‘venture’ can certainly run the gamut from an isolated act of sex trafficking to an international sex-trafficking enterprise, it can also be a business whose primary focus is not on sex trafficking. *G.G. v. Salesforce.com, Inc.*, 22-2621, 2023 WL 4944015, at *6 (7th Cir. Aug. 3, 2023) (citing *Doe #1 v. Red Roof Inns, Inc.*, 21 F.4th 714, 727 (11th Cir. 2021)). Here, the common undertaking involving risk or profit is Crowley’s transportation business where Plaintiff and Blanco were employed, or the implementation of the DFTS contract. It is undisputed that Crowley participated in a common undertaking with Blanco.

ii. Crowley knowingly benefitted from participation in this venture

In pursuit of the lucrative DFTS contract, the Inland department in El Salvador had to grow and expand. Blanco was the sole supervisor of 17 other Inland employees, who were all considered entry level. Blanco supervised and trained these entry level employees, and his supervisor was in the U.S. Thus, Crowley benefitted because the work was being done more accurately and cost-effectively than in the United States.⁹⁶

iii. Crowley’s Actual or constructive knowledge

⁹⁶ Lopez Dep. Doc. 89-4 at 88:21-89-9.

Contrary to Crowley's contention, Section 1595 does not require proof of knowledge of the specific victim. *G.G. v. Salesforce.com, Inc.*, 22-2621, 2023 WL 4944015, at *9 (7th Cir. Aug. 3, 2023). Section 1595 provides for participant liability where the defendant "knew or should have known" that the "venture ... has engaged in an act in violation" of Section 1591. This is a negligence standard. *Id.* at *7, n.9.

With reasonable oversight into the Inland team in El Salvador, Crowley knew or should have known that Blanco was engaged in sex trafficking. There were the following indicia: EthicsPoint complaints about Blanco (§I. D.); Plaintiff's reporting Blanco's sexual assault in the elevator to HR (§I. D.); LaMoureaux's failure to report Plaintiff's allegations to HR (§I. F.); Local (El Salvador) HR's well-known policy of not taking action in response to employee's allegations of sexual misconduct (§I. H., Pl.'s Undisputed Material Facts ¶18-20 ("UMF")); Blanco widely circulating a sex tape of one of his Inland employees (Pl.'s UMF ¶9); Lopez's knowledge that Blanco was circulating his employees sex tape and not reporting it to HR (Pl.'s UMF ¶10); Lopez's failure to report allegations of sexual harassment to HR (Pl.'s UMF ¶25); allowing Blanco to select Plaintiff to accompany him on the November 2017 international business trip after Lopez knew Blanco circulated an employee's sex tape in the workplace (Pl.'s UMF ¶11); Blanco's desire to recruit women for sexual liaisons with Lopez (Pl.'s UMF ¶12); Sexual harassment and retaliation of the women who complained in El Salvador (Pl.'s UMF ¶¶13-14); Severe and pervasive sexual harassment and sexual misconduct that had been going on for years in El Salvador, without consequences (Pl.'s UMF ¶16; Bengan Declaration, Doc. 89-9, p.8).

Another way for Plaintiff to prove knowledge is by showing that Blanco engaged in a *modus operandi* such that Crowley knew that Blanco had a pattern of using force to cause a commercial sex act with victims. “It is well settled that evidence of prior or **subsequent similar accidents** at or near the same place are admissible if they are not too remote in time, for the purpose of showing the dangerous character of the place and defendants’ **knowledge** thereof.” *Chapman v. Loftin*, 67 So. 2d 220, 222 (Fla. 1969). *See also Wood v. Walt Disney World Co.*, 396 So. 2d 769, 770 (Fla. 4th DCA 1981). “It is equally well settled that a plaintiff may use evidence of the occurrence or non-occurrence of prior or **subsequent** accidents to **prove constructive notice** of the dangerous character of a condition.” *Nance v. Winn Dixie Stores, Inc.*, 436 So. 2d 1075, 1076 (Fla. 3d DCA 1983).

Under Fed. R. Evid. 415, in a civil case involving a claim for relief based on a party’s alleged sexual assault, the court may admit evidence that the party committed **any other sexual assault** (emphasis added). This is evidence of “other crimes, wrongs, or acts” under Fed. R. Evid. 404(b)(2), admissible for “proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.”

Here, Jane Doe #1’s subsequent sex trafficking incident, documented in EthicsPoint Case #297 and in her pending lawsuit (Case No. 3:23-cv-383), is evidence of Blanco’s *modus operandi* and Crowley’s actual or constructive knowledge. Of Blanco’s alleged attack of Jane Doe #1 in January 2018, LaMoureaux was asked, “Doesn’t that sound exactly like what Vanessa Treminio said to you?” He replied, “It

does.”⁹⁷

b. Crowley’s perpetrator liability under the TVPRA

Crowley sent Plaintiff on a business trip with knowledge, or in reckless disregard, of the fact that Blanco would use force to cause Plaintiff to engage in a commercial sex act. 18 U.S.C. § 1591(a). Najera’s acts and omissions—threatening and forcing Plaintiff to go on an international business trip with the man who had just groped her breast—are imputed to Crowley because Najera was Crowley’s employee and agent. Najera sent Plaintiff on the business trip with knowledge that Blanco had already used force in the elevator to sexually assault her. A reasonable jury may find that based on Najera’s acts and omissions, Crowley knew or acted in reckless disregard of the fact that Plaintiff would be forced to engage in a commercial sex act while on a business trip with Blanco.

C. Crowley is liable for Forced Labor in violation 18 U.S.C. § 1589

The evidence in the record demonstrates that multiple Crowley employees forced Plaintiff, against her will, into an international business trip with her supervisor, whom she had accused of sexually assaulting her, by threatening her with harm that was “sufficiently serious, under all the surrounding circumstances, to compel a reasonable person” of her background and in her circumstances to perform labor or services. Plaintiff was sexually assaulted and coerced into staying by means of Najera and Blanco threatening her livelihood and her young child when she was a single mom

⁹⁷ LaMoureux Depo. Doc. 89-2 at 249:23-250:4.

in an impoverished city that was the most dangerous in the world. A reasonable jury may find that under Plaintiff's surrounding circumstances, the psychological coercion was strong, and effectively eliminated Plaintiff's ability to exercise free will or choice.

Based on the Plaintiff's undisputed testimony, and the dangerous environment in El Salvador, where snitches are killed⁹⁸, Najera and Blanco intentionally caused Plaintiff reasonably to believe, given her special vulnerabilities, that she had no alternative but to travel on the business trip with Blanco and "collaborate" because she would not want to have Blanco, or Najera, as an "enemy." At the very least, a jury should decide whether Blanco and Najera's threats constitute the level of "serious harm" required by the TVPA, not Crowley's lawyers.

IV. Court's Authority to Enter Summary Judgment in the Plaintiff's Favor

In denying Crowley's Motion for summary judgment, the Court may also enter summary judgment in favor of the non-moving party, Plaintiff Vanessa Treminio, based on Crowley's violation of the TVPA and 18 U.S.C. § 1589 supported by the record evidence. Fed. R. Civ. P. 56(f)(1). *See, e.g., Burton v. City of Belle Glade*, 178 F.3d 1175, 1203 (11th Cir. 1999) ("A district court possesses the power to enter summary judgment *sua sponte* provided the losing party 'was on notice that she had to come forward with all of her evidence.'"). Accordingly, Plaintiff opposes Crowley's Motion for Summary Judgment and requests it be denied, and this Court should instead enter summary judgment in favor of the Plaintiff on all her claims.

⁹⁸ LaMoureaux Depo. Doc. 89-2 at 103.

WHEREFORE, based on the foregoing, the Plaintiff respectfully requests Crowley's Motion for Summary Judgment be denied and this Court enter summary judgment in favor of the Plaintiff.

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2023, I electronically filed the foregoing with the Clerk of the Court using CM/ECF. I also certify that this document is being served this day on all counsel on the Service List via transmission of Notices of Electronic Filing generated by CM/ECF.

Respectfully submitted,

/s/ Adria G. Notari

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