

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

JOY B. HIKEL,)	
)	
PLAINTIFF)	
)	
v.)	CIVIL No. 1:13-cv-75-DBH
)	
TOWN OF MADISON,)	
)	
DEFENDANT)	

**ORDER AFFIRMING IN PART AND REJECTING IN PART
THE RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

On June 5, 2014, the United States Magistrate Judge filed with the court, with copies to counsel, his Recommended Decision on Defendant’s Motion for Summary Judgment. Objections to the Recommended Decision were filed by the plaintiff and the defendant on June 20 and June 23, 2014, respectively. I have reviewed and considered the Recommended Decision, together with the entire record. I have made a *de novo* determination of all matters adjudicated by the Recommended Decision. I **OVERRULE** the defendant’s objection and **SUSTAIN** the plaintiff’s objection, and determine that no further proceeding is necessary. Therefore, I **AFFIRM IN PART** and **REJECT IN PART** the recommendations of the United States Magistrate Judge, as stated below.

On her sex discrimination claim, the plaintiff provided evidence as to how the actions and decisions (amount of raises and vacation time; budget scrutiny; yelling by Town Manager; move to a new office), when compared with treatment

of other similarly situated personnel, correlated specifically with gender. The Magistrate Judge has certainly laid out reasons why a factfinder might find no sex discrimination, gauging the Town's evidence of independent reasons more persuasive than the plaintiff's claim of sex discrimination. But I conclude that this weighing of the inferences is for the factfinder, especially when coupled with the evidence here of pretext, which the Magistrate Judge detailed with respect to the retaliation claim. See DeCaire v. Mukasey, 530 F.3d 1, 20 (1st Cir. 2008) ("To the extent the district court said it required DeCaire to present evidence beyond disproving the government's arguments as pretext, that was error.").

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **AFFIRMED IN PART AND REJECTED IN PART**. The defendant's motion for summary judgment is **GRANTED** as to Count IV and **DENIED** as to Counts I, II and III.

SO ORDERED.

DATED THIS 15TH DAY OF JULY, 2014

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE