

STATE OF MAINE
PENOBSCOT, SS.

SUPERIOR COURT
Docket No. CV-00-91

AMM - PEN - 10/23/01

**FILED AND ENTERED
SUPERIOR COURT**

OCT 23 2001

PENOBSCOT COUNTY

DEBORAH WHELDEN,)
Plaintiff,)
)
)
)
v.)
)
)
)
ST. JOSEPH HEALTHCARE,)
Defendant.)

**ORDER ON MOTION
FOR SUMMARY JUDGMENT**

Defendant moves for summary judgment. The court has reviewed the parties' written submissions and has had the benefit of oral argument on October 19, 2001.

Defendant moves for summary judgment on the portion of the Complaint which seeks attorneys fees and penalties under the Maine Human Rights Act. The Defendant quite properly points out that the Plaintiff failed to allege the fact of the earlier filing and action by the Maine Human Rights Commission. The Plaintiff counters by moving to amend to add these allegations. As the court hereby grants the motion to amend, this point is rendered moot and the court must decline to enter summary judgment on this point.

Plaintiff has apparently abandoned her claims for reinstatement and front pay. As issues of fact remain concerning the issue of back pay, the court declines to enter summary judgment at this point.

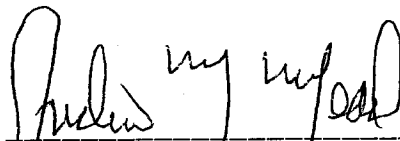
Defendant asserts that the communication referenced in the Plaintiff's Complaint alleging a Whistleblower Act violation (the May 24, 1999, memo) is inadequate to found this cause of action. When viewed within the four corners of the document, the Defendant is quite correct. However, the court declines to so limit the interpretation of this document. It must be read in the context of actions and circumstances which occurred

before and after its drafting. While the Plaintiff may still have a significant evidentiary burden to surmount, the court cannot say at this juncture that judgment must be rendered in favor of the Defendant. As such, summary judgment is inappropriate and must be denied.

Accordingly, the docket entry shall be: Defendant's Motion for Summary Judgment is denied.

The Clerk may incorporate this Order into the docket by reference pursuant to M.R.Civ.P Rule 79 (a).

Dated: October 23, 2001



JUSTICE, SUPERIOR COURT

Date Filed 4/28/2000 PENOBSCOT County Docket No. CV-2000-91

Action WHISTLEBLOWER

ASSIGNED TO JUSTICE FRANCIS C. MARSANO
RE-ASSIGNED TO JUSTICE ANDREW M. MEAD

DEBORAH WHELDEN

vs.

ST. JOSEPH HEALTHCARE

Plaintiff's Attorney

GILBERT & GREIF

P O BOX 2339 - 82 Columbia Street

BANGOR ME 04402-2339

BY: Arthur J. Greif, Esq.

Defendant's Attorney

RUDMAN & WINCHELL

P O BOX 1401 - 84 Harlow Street

BANGOR, ME 04402-1401

BY: John W. McCarthy, Esq.

Frank T. McGuire, Esq.

Date of
Entry