

plain that there remain genuinely disputed issues of material fact. If a jury were to credit plaintiff's evidence and the testimony of the witnesses whose affidavits she has supplied, it could reasonably conclude that plaintiff was subjected to a hostile work environment, permeated by inappropriate sexual conduct on the part of Duncanson that was both severe and pervasive. See generally Harris v. Forklift Systems, Inc., 510 U.S. 17 (1993); Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986). See also Exhibit A to plaintiff's objection, Transcript of testimony before New Hampshire Human Rights Commission; Exhibit B, Affidavit of Karen Tardivo.

Similarly, as to plaintiff's state law claim, a trier of fact could reasonably conclude that, on one or more occasions, Duncanson subjected plaintiff to unwelcome and offensive touching, thereby committing common law assault and/or battery. See generally Yale v. Town of Allenstown, 969 F. Supp. 798, 801 (D.N.H. 1997); Restatement (Second) of Torts §§ 18, 19, 21(1). See also Exhibit A to plaintiff's objection, Transcript of

testimony before New Hampshire Human Rights Commission; Exhibit B, Affidavit of Karen Tardivo.

In light of the foregoing, defendants' motion for summary judgment (document no. 24) is denied.

SO ORDERED.

Steven J. McAuliffe
United States District Judge

October 18, 2000

cc: Nancy Richards-Stower, Esq.
Linda S. Johnson, Esq.