UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

ELAINE BEAUCHESNE

v.

Civil No. 24-cv-00282-TSM
Opinion No. 2025 DNH 121

AGING EXCELLENCE, INC.
BETHANY LAWRENCE

ORDER ON DEFENDANTS' MOTION TO DISMISS

Plaintiff Elaine Beauchesne ("Beauchesne") brings this employment discrimination suit (Doc. No. 1-1) against her former employer Aging Excellence, Inc. ("AEX") and its President Bethany Lawrence ("Lawrence"). Defendants move to dismiss (Doc. No. 7) the suit pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim sufficient to entitle Beauchesne to relief. Beauchesne objects (Doc. No. 13). For the reasons that follow, Defendant's motion to dismiss (Doc. No. 7) is granted in part as to Count V (Wrongful Discharge) as provided in this order, and as to Counts IV (Retaliation) and VI (Whistleblower's Protection Act) in their entirety. The motion is otherwise denied.

LEGAL STANDARD

In reviewing a motion to dismiss a complaint for failure to state a claim, "[n]on-conclusory factual allegations in the complaint must . . . be treated as true[.]" Ocasio-Hernandez, 640 F.3d 1, 11 (1st Cir. 2011) (citing Iqbal, 556 U.S. at 678). Legal conclusions couched as fact or threadbare recitals of the elements of a cause of action are disregarded. Id. The complaint "'must contain sufficient factual matter to state a claim to relief that is plausible on its face.'" Rodríguez-Reyes v. Molina-Rodríguez, 711 F.3d 49, 53 (1st Cir. 2013) (quoting Grajales v. P.R. Ports Auth., 682 F.3d 40, 44 (1st Cir. 2012)).

"A plausibility inquiry is 'a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.'" Rodríguez-Reyes, 711 F.3d at 53 (quoting Iqbal, 556 U.S. at 679). "The plausibility standard is not akin to a 'probability requirement,' but it asks for more than a sheer possibility that a defendant has acted unlawfully." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 556 (2007)). In other words, "[i]n order to defeat a Fed. R. Civ. P. 12(b)(6) motion, a complaint must contain 'enough facts to raise a reasonable expectation that discovery will reveal evidence' supporting the claims." Fantini v. Salem State Coll., 557 F.3d 22, 26 (1st Cir. 2009) (quoting Twombly, 550 U.S. at 556). The reviewing court does not credit '"bald assertions, periphrastic circumlocutions, unsubstantiated conclusions, or outright vituperation,' or "subjective characterizations, optimistic predictions, or problematic suppositions.'" Fantini, 557 F.3d at 26 (quoting Gagliardi v. Sullivan, 513 F. 3d 301, 305 (1st Cir. 2008) (further citations and internal quotations marks omitted)).

"Barring 'narrow exceptions,' courts tasked with . . . [considering a motion to dismiss] usually consider only the complaint, documents attached to it, and documents expressly incorporated into it." Foley v. Wells Fargo Bank, N.A., 772 F.3d 63, 71-72 (1st Cir. 2014) (quoting Watterson v. Page, 987 F.2d 1, 3 (1st Cir. 1993)). "There is, however, a narrow exception 'for documents the authenticity of which are not disputed by the parties; for official public records; for documents central to plaintiffs' claim; or for documents sufficiently referred to in the complaint.'" Alt. Energy, Inc. v. St. Paul Fire & Marine Ins. Co., 267 F.3d 30, 33 (1st Cir. 2001) (quoting Watterson, 987 F.2d at 3).

Here, the parties included with their pleadings, exhibits containing portions of text messages between Beauchesne and Lawrence. The court considers specific text messages to the

extent they are sufficiently referenced in the Complaint. To the extent that the parties dispute the connation of the text messages, such arguments are better suited for a properly supported motion for summary judgment.

Applying this standard to the instant case, the relevant facts are as follows.

BACKGROUND

The Parties

Beauchesne is a heterosexual female. Doc. No. 1-1 at ¶ 10. Beauchesne worked as a Service Coordinator for AEX at its Portsmouth, New Hampshire office from May 20, 2021 until September 19, 2022, when AEX terminated her employment. Id. at ¶ 10. Lawrence is the President/Owner of AEX. Id. at ¶ 4. Lawrence is a "female lesbian, who had been divorced from a female." Id. at ¶ 11.

Lawrence Expresses Romantic Interest in Beauchesne

In the summer or fall of 2021, shortly after Beauchesne started working for AEX, Lawrence expressed a romantic interest in Beauchesne by texting her "things such as 'I want to date you', and the like." Id. at ¶ 12. Beauchesne was not interested in a romantic relationship, so she "tried to discourage Defendant Lawrence's advances by not responding to them at all, or in some instances[,] responding only vaguely or obliquely." Id. at ¶ 13. Throughout her employment, Beauchesne tried to communicate her rejection to Lawrence's advances in a "tactful" manner, so as not to jeopardize her job, but Lawrence continued to proposition her. Id. at ¶¶ 13-14.

Lawrence's Non-Work-Related Invitations to Beauchesne between January 2022 and April 2022

Beauchesne alleges that between January 2022 and April 2022, Lawrence invited her out on at least six different occasions. Id. at ¶ 15. For instance, Beauchesne alleges that on several

occasions, Lawrence invited Beauchesne out for dinner or to Lawrence's home in Rye, New Hampshire. Id. at ¶ 15. Other times, Lawrence invited Beauchesne to "visit her at far away locations" in Maine and New Hampshire. Id.

On March 26, 2022, Lawrence invited Beauchesne to her home in Rye, and "and requested to know Ms. Beauchesne's life 'story' 'because I like you a lot.'" Id. at ¶ 16. Beauchesne declined the invitation, stating that she had other plans and that she was "glad their kids got along so well together." Id. Lawrence "stated that she 'Got it' and would 'move on' and 'the kiddos can have playdates without us together . . . alternating going forward.'" Id.; see also Doc. No. 13-3 at pgs. 3-4.

Beauchesne interpreted Lawrence's message that she "Got it" and would "move on," as an acknowledgment that "Beauchesne was rebuffing . . . Lawrence's sexual advances." Doc. No. 1-1 at ¶ 16 (quotations omitted). However, Lawrence continued to invite Beauchesne to joint activities with their kids throughout spring and early summer of 2022. Id. at ¶ 17.

Around this same time, Lawrence also promised Beauchesne a bonus but never paid it. Id. at ¶ 18.

Lawrence's June 2022 Request to Stay at Beauchesne's House and Subsequent Non-Work-Related Invitations to Beauchesne

On or around June 3, 2022, Lawrence sent Beauchesne a text message, asking to sleepover Beauchesne's house because Lawrence planned to attend an event in the area. Id. at ¶ 19. Lawrence told Beauchesne that she would "'tread lightly.'" Id. Beauchesne initially agreed because she felt "bad that . . . Lawrence reportedly had nowhere to stay," but reconsidered and ultimately declined. Id. at ¶ 19.

On June 8, just a few days after Lawrence asked to spend the night at Beauchesne's house, Lawrence invited "Beauchesne and her child to come over to the pool at [Lawrence's] hotel, but

Ms. Beauchesne declined stating she had to go to a track meet." Id. at ¶ 20. "Lawrence replied, 'oooh baby good luck!', which . . . Beauchesne construed to be said in a sexual manner." Id.

On July 1, 2022, approximately one month after Lawrence asked to sleep over Beauchesne's home, Lawrence invited Beauchesne to a "Lakes Region swimming destination and cookout" planned for Sunday, July 3, 2022. Id. at ¶ 21. Beauchesne "rejected [the invitation] by responding 'Thanks.'" Id. Thereafter, Lawrence texted Beauchesne that Beauchesne was "'unmanageable,'" and that Lawrence was "'captivated' by Ms. Beauchesne's 'abandon' and hoped to see her." Id. On Sunday, July 3, Lawrence renewed her invitation, and Beauchesne declined again. Id.

The July 2022 "Disciplinary" Email Sent to Beauchesne

On July 8, 2022, less than a week after Beauchesne rejected Lawrence's swimming invitation, id. at ¶ 21, Lawrence emailed Beauchesne at her personal email address, "purporting to discipline" Beauchesne about a work-related matter. Id. at ¶ 23. The email "also referenced Ms. Beauchesne's solid job performance, pay raise from $20 to $25 per hour, and her bonus." Id. Beauchesne did not reply to Lawrence's email. Id. After the July 8 email, Beauchesne alleges that Lawrence "threaten[ed]" to terminate her "several times per week." Id. at ¶ 24.

Despite threatening to terminate her employment, Beauchesne alleges that in late July/early August of 2022, Lawrence "mysteriously entrusted" Beauchesne with a stack of blank, pre-signed business checks to use "in case of an emergency." Id. at ¶ 25 (quotation marks omitted). Lawrence also gave Beauchesne a key to the office safe. Id. By the end of the month, however, Lawrence took both the items back. Id. at ¶ 26.

Beauchesne and Lawrence's Interactions between August 28 through Early September 2022

Beauchesne went on vacation in late August 2022. Id. at ¶ 26. Although she planned to return to work on Monday, August 29, she did not go back to the office until August 30, 2022 because of a COVID-19 exposure risk at her child's daycare. Id. at ¶¶ 26-28. Beauchesne texted Lawrence updates about when she planned to return to work, but Lawrence did not respond. Id. at ¶ 28.

Beauchesne returned to the office on Tuesday, August 30. Id. at ¶ 29. Beauchesne alleges that when Lawrence saw her, Lawrence "went into a rage," "dressed her down on the sidewalk outside the office and told [Beauchesne] she 'was the worst person in the world.'" Id. "Lawrence then sent Ms. Beauchesne home, slamming the glass door in her face and locking it with the inside deadbolt." Id. Beauchesne returned to work the following day, and she worked the rest of the week without incident. Id. at ¶ 30. On August 31, Lawrence texted Beauchesne an apology. Id.

Roughly a week later, on the evening of September 6, 2022, "Lawrence texted Ms. Beauchesne a magazine story about a love affair between two prominent women, together with their love poems." Id. at ¶ 32. Beauchesne alleges that she responded "obliquely . . . in order to discourage . . . and reject . . . Lawrence without losing her job." Id.

The following afternoon, "Lawrence flew into a rage" about mailing a paycheck to a recently departed employee "rather than putting it in the outside-the-office box for pickup, as was the norm." Id. at ¶ 34. During that encounter, Lawrence "tore the paychecks from . . . Beauchesne's hands as she was putting them in the box and sent her home half an hour early." Id.

Termination of Beauchesne's Employment

Over the next two weeks, the parties communicated about when Beauchesne would return to work. Id. at ¶¶ 35-40. On September 13, Lawrence asked Beauchesne to come into the office

on September 14, "but no time was agreed upon and . . . Lawrence said she would be back in touch with Ms. Beauchesne." Id. at ¶ 36.

A few days later, on September 16, Lawrence texted Beauchesne an invitation to meet for coffee the following day, which Beauchesne "obliquely" declined. Id. at ¶ 37. In response, Lawrence wished Beauchesne a nice weekend. Id. The two continued texting, and on September 17, they agreed to meet at the office on Tuesday, September 20. Id. at ¶ 38.

On Sunday, September 18, Lawrence sent Beauchesne a "rapturous text," to which Beauchesne did not reply. Id. at ¶ 39. The next day, Lawrence called Beauchesne to cancel their meeting, "started falsely accusing Ms. Beauchesne of fraud and of conspiring with [a former employee] against . . . Lawrence, and terminated Ms. Beauchesne." Id. at ¶ 40.

Beauchesne alleges, however, that Lawrence's fraud and conspiracy accusations are pretextual, and that the real reason for her termination is her refusal "to perform tasks" for Lawrence that were "unethical and/or illegal." Id. at ¶ 42. Specifically, Beauchesne alleges that in January 2022, Lawrence went out of town without signing payroll checks, so she asked Beauchesne to sign the checks even though Beauchesne was not a signatory on any AEX bank accounts. Id. at ¶ 42(a). Beauchesne refused to sign the checks, and "Lawrence had another employee forge her signature." Id.

Beauchesne further alleges that in late 2021/early 2022, Lawrence, who lived in Rye, New Hampshire, asked Beauchesne "if she could use [Beauchesne's] address as her own" so that Lawrence's son could attend school in Portsmouth, rather than Rye. Id. at ¶ 42(b). Beauchesne alleges that when she declined, Lawrence said she would ask another AEX employee to use their address instead. Id.

Beauchesne's Lawsuit

Following her termination, Beauchesne filed a discrimination charge with the New Hampshire Commission for Human Rights ("Commission"), which she withdrew on May 2, 2024. Id. at ¶ 8. On May 7, 2024, the Equal Opportunity Commission ("EEOC") issued a Notice of Right to Sue. Id. She timely filed a Complaint in Rockingham County Superior Court on August 5, 2024. Beauchesne then filed the instant lawsuit in Rockingham County Superior Court on August 5, 2024, see id. at ¶ 8, and Defendants removed the action to this court. See generally Doc. No. 1.

DISCUSSION

Beauchesne asserts the following claims against Defendants: (1) Gender Discrimination under state and federal law against AEX; (2) Gender Discrimination – Hostile Environment/Sexual Harassment under state and federal law against AEX; (3) Aiding and Abetting Gender Discrimination under state law against Lawrence; (4) Retaliation under state and federal law against both Defendants; (5) Wrongful Discharge against AEX; and (6) violation of the New Hampshire Whistleblower's Protection Act against both Defendants. See, generally, Doc. No. 1-1. Defendants move to dismiss Beauchesne's entire Complaint. Doc. Nos. 7 and 7-1.

I. Gender Discrimination (Count I)

Defendants contend that Count I fails because Beauchesne "has not alleged sufficient facts . . that she was harassed on the basis of sex," that is, because she is a female. Doc. No. 7 at ¶ 1; Doc. No. 7-1 at pgs. 7-9. Specifically, Defendants argue that Beauchesne's Complaint "lacks allegations of implicit or explicit proposals of sexual activity that would make it reasonable to assume that Ms. Lawrence was motivated by sexual desire." Doc. No. 7-1 at pg. 9.

"Title VII and RSA 354-A prohibit harassment when it constitutes discrimination on the basis of sex."[1] Carney v. Town of Weare, 15-cv-291, 2017 WL 680384, at * 9 (D.N.H. Feb. 21, 2017); Aponte–Rivera v. DHL Sols. (USA), Inc., 650 F.3d 803, 808 (1st Cir. 2011) ("Title VII . . . prohibits discrimination on the basis of sex . . . ."); see 42 U.S.C. § 2000e–2(a)(1), RSA 354-A:7. It is "well established that 'sex discrimination consisting of same-sex sexual harassment is actionable under Title VII.'" Nieves-Borges v. El Conquistador Partnership, L.P., S.E., 936 F.3d 1, 9 (1st Cir. 2019) (quoting Oncale v. Sundowner Offshore Servs., 523 U.S. 75, 82 (1998)). Further, "[i]t is well established that in order to sustain a same-sex sexual harassment action under Title VII, there must be a determination that the harasser's conduct constitutes sex discrimination." Vargas-Caban v. Caribbean Transp. Servs., 279 F. Supp. 2d 107, 110 (D.P.R. 2003). In analyzing sex-based discrimination, "[t]he critical issue . . . is whether members of one sex are exposed to disadvantageous terms or conditions of employment to which members of the other sex are not exposed." Oncale, 523 U.S. at 80 (quotation omitted). "Once sexual discrimination is established, the Court must then determine if the alleged conduct meets the standard for either a *Quid Pro Quo* or Hostile Environment type of sexual harassment." Vargas-Caban, 279 F. Supp. 2d at 110 (citing LaDay v. Catalyst Technology, 302 F.3d 474, 478 (5th Cir. 2002)). Here, Defendants' argument is directed to the first part of the analysis – i.e., whether Beauchesne alleges sufficient facts to state

[1] "Because the New Hampshire Supreme Court relies on Title VII cases to analyze claims under RSA 354–A, the court will address [Beauchesne's] state and federal claims together using the Title VII standard." Moore v. Health Care and Rehab. Services of S.E. Vermont, Inc., No. 24-CV-031, 2024 WL 4285898, at *2 (D.N.H. Sept. 25, 2024) (quoting Hubbard v. Tyco Integrated Cable Sys., Inc., 985 F. Supp. 2d 207, 218 (D.N.H. 2013) (quotation and alteration omitted); see Rolfs v. Home Depot U.S.A., Inc., 971 F.Supp.2d 197, 208, 214 (D.N.H. 2013) (applying Title VII standard to RSA 354-A retaliation claim).

a claim of sex discrimination.[2] See Doc. No. 7-1 at pgs. 7-9. Accordingly, the issue before the court is whether Beauchesne plausibly alleges that she experienced discrimination because she is a woman.

In Oncale, the Court outlined evidentiary routes by which a plaintiff can show that an incident of same-sex harassment constitutes discrimination on the basis of sex. Oncale, 523 U.S. at 80-81. First the plaintiff can allege that: 1- "the harasser was homosexual and the harassment is motivated by sexual desire"; 2- "the harasser is motivated by a hostility to the presence of the victim's sex in the workplace"; or 3- "the harasser treated males and females differently in a mixed-sex work environment." Ciccotto v. LCOR, Inc., No. 99 CIV. 11646 (RMB), 2001 WL 514304, at *4 (S.D.N.Y 2001) (citing Oncale, 523 U.S. at 81). "Whatever evidentiary route the plaintiff chooses to follow, he or she must always prove that the conduct at issue was not merely tinged with offensive sexual connotations, but actually constituted '*discrimination* because of sex.'" Oncale, 523 U.S. at 81 (ellipses and brackets omitted).

The parties agree, for purposes of this motion, that the first evidentiary theory is relevant to the analysis here. See Doc. No. 7-1 at pg. 8; Doc. No. 13-1 at pgs. 9-10. Reviewing the record in its entirety and construing all inferences in Beauchesne's favor, Beauchesne sufficiently alleges that she was discriminated against because she is a woman. Beauchesne alleges in the Complaint

[2] In her objection, Beauchesne states that Count I asserts a claim of "gender discrimination, including *quid pro quo*" harassment, which she argues is adequately pled in the Complaint. Doc. No. 13-1 at pg. 8; see Doc. No. 1-1 at ¶ 45 (alleging that Beauchesne "was retaliated against for not submitting to the sexual harassment and unwanted advances, which also may be termed as *quid pro quo* harassment"). Beauchesne further argues that because Defendants failed to address her quid pro quo claim in their motion to dismiss, they cannot address it for the first time in their reply, so their motion to dismiss as to Count I should be denied. See Doc. No. 13-1 at pg. 8. However, the court need not decide the question of whether Count I asserts a claim for quid pro quo sexual harassment because Defendants do not move to dismiss on that basis.

that Lawrence is a "female lesbian, who had been divorced from a female." Doc. No. 1-1 at ¶ 11. For purposes of this motion, Plaintiff sufficiently alleges that the purported harasser was homosexual. Thus, the key question is whether Beauchesne sufficiently alleged that Lawrence's conduct involved "explicit or implicit proposals of sexual activity." Oncale, 523 U.S. at 80. Defendants argue that the Complaint lacks "sufficient factual allegations to permit the inference that the alleged conduct was motivated by sexual desire" nor does it contain "allegations of implicit or explicit proposal of sexual activity that would make it reasonable to assume that Ms. Lawrence was motivated by sexual desire." Doc. No. 7-1 at pgs. 8-9. The court disagrees.

Beauchesne's allegations, accepted as true for the purposes of this motion, reflect that in the summer or fall of 2021, Lawrence told Beauchesne that "I want to date you." Doc. No. 1-1 at ¶ 12. Then, on at least six occasions between January and April 2022, Lawrence invited Beauchesne to dinners at Lawrence's home and to other outings around New Hampshire and in Maine. Id. at ¶¶ 15-16. Further, on March 26, 2022, Lawrence invited Beauchesne to her home and again expressed interest in Beauchesne stating, "I want to know your story because I like u a lot." Doc. No. 13-3 at pg. 3; Doc. No. 1-1 at ¶ 16. When Beauchesne declined the invitation, Lawrence responded, "Got it.. I will move on …," and she told Beauchesne that their "kiddos can have playdates without us . . . together . . . alternating [going] forward." Doc. No. 1-1 at ¶ 16; Doc. No. 13-3 at pg. 4. The court concludes that these facts, viewed in the light most favorable to Beauchesne, plausibly allege that although the parties may have socialized for family-related reasons, Lawrence explicitly expressed a sexual interest in Beauchesne on at least two occasions, which Beauchesne rejected. See Doc. No. 1-1 at ¶¶ 12, 16. They also support the conclusion that Lawrence implicitly expressed a sexual interest in Beauchesne on a number of additional occasions. For example, when viewed in Plaintiff's favor and against the background of

Lawrence's explicit statements, Lawrence's repeated invitations and efforts to meet Plaintiff outside of work could reasonably be construed as an effort to pursue a sexual relationship with Beauchesne, Lawrence's subordinate. This possibility is further supported by Lawrence's June 2022 text messages to Beauchesne, in which Lawrence asked to stay at Beauchesne's house, with the proviso that Lawrence would "tread lightly." Doc. No. 1-1 at ¶ 19. It is also supported by Lawrence's comment, in July 2022, that Beauchesne was "unmanageable," and Lawrence was "captivated" by Plaintiff's "abandon," and by Lawrence's decision to send Beauchesne a magazine article, in September 2022, regarding a love affair between two women, along with the women's love poems.[3] Id. at ¶¶ 21, 32 (quotations omitted).

For these reasons, the court finds that Beauchesne adequately alleged the "basis of sex" element of a Title VII gender discrimination claim. Accordingly, Defendants' motion to dismiss Count I is denied.

II. Hostile Work Environment Harassment (Count II)

In Count II, Beauchesne alleges that AEX created a hostile work environment by subjecting her to sexual harassment because of her gender. Doc. No. 1-1 at ¶¶ 57-60. Defendants argue that Beauchesne fails to allege sufficient facts to satisfy the elements of a claim for hostile environment gender discrimination. Doc. No. 7-1 at pgs. 10-12. Therefore, they contend that Count II must be dismissed. Id.

> To prove a claim of hostile work environment sexual harassment, a plaintiff must establish: "(1) that she . . . is a member of a protected class; (2) that she was subjected to unwelcome sexual harassment; (3) that the harassment was based upon sex; (4) that the harassment was sufficiently severe or pervasive so as to alter the conditions of plaintiff's employment and create an abusive work environment; (5) that sexually objectionable conduct was both objectively and subjectively

[3] The parties dispute Plaintiff's characterization of the poem as a love poem, but that issue is appropriate for the court to decide on summary judgment, not at the motion to dismiss stage.

> offensive, such that a reasonable person would find it hostile or abusive and the victim in fact did perceive it to be so; and (6) that some basis for employer liability has been established."

Crowley v. L.L. Bean, Inc., 303 F.3d 387, 395 (1st Cir. 2002) (quoting O'Rourke v. City of Providence, 235 F.3d 713, 728 (1st Cir. 2001)).

Defendants argue that Count II should be dismissed because Beauchesne does not sufficiently allege that: 1- she was harassed on the basis of her sex; 2- the alleged harassment was severe or pervasive; or 3- that Lawrence's conduct was unwelcome. See Doc. No. 7-1 at pgs. 10-12. Because the court already determined that Beauchesne sufficiently pled discrimination on the basis of sex, the court turns directly to Defendants' second argument.

A. Severe or Pervasive

To succeed on a hostile work environment claim, a plaintiff must allege, *inter alia*, "that the harassment was sufficiently severe or pervasive so as to alter the conditions of [the] plaintiff's employment and create an abusive work environment." O'Rourke, 235 F.3d at 728 (citing Faragher v. City of Boca Raton, 524 U.S. 775, 787-89). "The harassing conduct need not be overtly sexual in nature." Rosario v. Dep't of the Army, 607 F.3d 241, 247 (1st Cir. 2010) (citing O'Rourke, 235 F.3d at 729). Whether harassment creates a hostile work environment "is not, and by its nature cannot be, a mathematically precise test." Harris v. Forklift Sys., Inc., 510 U.S. 17, 22 (1993). "[W]hether an environment is 'hostile' or 'abusive' can be determined only by looking at all the circumstances," which "may include the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance." Id. at 23.

Over Beauchesne's approximately sixteen-month tenure, Lawrence explicitly expressed a non-professional interest in Beauchesne on two occasions and invited Beauchesne to spend time with her outside of work on at least ten occasions. See Doc. No. 1-1 at ¶¶ 10, 12, 15-20. Lawrence also asked to stay at Beauchesne's house overnight and noted that she would "tread lightly," told Beauchesne that Lawrence was "captivated" by Beauchesne's "abandon," and "texted… Beauchesne a magazine story about a love affair between two prominent women, together with their love poems." Id. at ¶¶ 19, 21, 32. Although Lawrence's repeated invitations could arguably be construed as platonic family events, when viewed within the context of Lawrence's persistent efforts to get together outside of work, explicit comments regarding her romantic interest in Beauchesne, and other behavior such as her decision to send Plaintiff the magazine story, Lawrence's actions and statements could reasonably be construed as harassing, abusive, and disruptive to Beauchesne's ability to carry out her job responsibilities. Accordingly, the court finds that Beauchesne's allegations, when viewed in her favor, satisfy the lenient pleading requirements necessary to withstand a motion to dismiss.

B. Unwelcomeness of Lawrence's Conduct

"'The gravamen of any sexual harassment claim is that the alleged sexual advances were unwelcome.'" Toomire v. Town & Country Janitorial Servs., Inc., No. Civ. 01-24-B, 2002 WL 140648, at *4 (D.N.H. Jan. 31, 2002) (quoting Meritor Sav. Bank, FSB v. Vinson, 477 U.S. 57, 68 (1986) (quotation marks omitted)). In the First Circuit, advances that are "uninvited and offensive or unwanted from the standpoint of the employee" are unwelcome. Chamberlin v. 101 Realty, Inc., 915 F.2d 777, 784 (1st Cir. 1990). "Where . . . the employee never verbally rejects the supervisor's sexual advances, yet there is no contention or evidence that the employee ever invited

them, evidence that the employee consistently demonstrated her unalterable resistance to all sexual advances is enough to establish their unwelcomeness." Id.

Defendants argue that the Complaint is insufficient to satisfy this element of Beauchesne's hostile work environment claim. Doc. No. 7-1 at pg. 12. Specifically, Defendants assert that Beauchesne's "conclusory allegations about how she 'rebuff[ed]' . . . and 'reject[ed]'" Lawrence contradict her factual allegations that she replied to Lawrences "'advances' with a compliment . . . gratitude, assent, no response, mixed messages, or a polite declination because of conflicting plans." Doc. No. 7-1 at pg. 12 (citations omitted). Although Beauchesne acknowledges that she did not reject Lawrence's advances in express or unambiguous terms, she alleges that she consistently rebuffed those advances in "tactful" ways because she feared losing her job. Doc. No. 1-1 at ¶ 13. For example, Beauchesne alleges that she ignored Lawrence's invitations, attempted to avoid Lawrence's advances by uttering vague responses, and declined Lawrence's proposals to meet outside of work by claiming alternative plans. See, e.g., id. at ¶¶ 13, 16, 21. Considering that Lawrence owned AEX and was Beauchesne's boss, and drawing reasonable inferences in Beauchesne's favor, Beauchesne sufficiently alleged that the harassment was unwelcome.

For all of these reasons, Defendants' motion to dismiss Count II is denied.

III. Aiding and Abetting Gender Discrimination (Count III)

In Count III, Plaintiff asserts that Lawrence aided and abetted practices made unlawful by RSA 354-A. Doc. No. 1-1 at ¶¶ 61-63. Defendants move to dismiss Count III on the basis that Beauchesne's gender discrimination claims both fail, and that Beauchesne cannot support her claim of aiding and abetting without these claims. Doc. No. 7-1 at pgs. 15-16; see U.S. Equal Emp. Opportunity Comm'n v. Fred Fuller Oil Co., Inc., 168 N.H. 606, 611 (2016) ("Thus, if there is no unlawful discriminatory practice by an employer, there can be no individual employee

liability for aiding and abetting."). Because the parties agree that the survival of Count III depends upon the survival of at least one of Plaintiff's gender discrimination claims (Count I or Count II), and this court concludes that both of those claims survive dismissal, Count III survives as well. See Doc No. 7-1 at pgs. 15-16; see also Doc. No. 13-1 at pg. 17. Accordingly, Defendants' motion to dismiss Count III is denied.

IV. Retaliation (Count IV)

In Count IV, Plaintiff asserts a retaliation claim under state and federal law against both AEX and Lawrence. See Doc. No. 1-1 at ¶¶ 64-66. Plaintiff claims that she engaged in protected activity – "objecting to sexual harassment" – and in response, Defendants retaliated against her by terminating her employment. Id.; Doc. No. 13-1 at pg. 15.

To state a retaliation claim under Title VII or RSA 354-A, a plaintiff must plausibly allege that "(1) the plaintiff engaged in protected conduct, (2) the employer took an adverse employment action, which was (3) in response to the employee's protected activity." Kinzer v. Whole Foods Mkt., Inc., 99 F.4th 105, 115 (1st Cir. 2024); see Rolfs, 971 F.Supp.2d at 208, 213-214 (noting the "New Hampshire Supreme Court relies on Title VII cases to analyze claims under RSA 354-A" and addressing the retaliation claim under the Title VII standard).

Defendants contend that dismissal is warranted because: 1- Beauchesne did not engage in a protected activity under Title VII or RSA 354-A:19; and 2- Defendants did not retaliate against Plaintiff.[4] Doc. No. 7-1 at pgs. 12-13. Because the court concludes that Beauchesne has not

[4] Defendants also argue that Beauchesne's Title VII retaliation claim fails because individual liability is unavailable under Title VII. Doc. No. 7-1 at pg. 15; Fantini, 557 F.3d at 30 ("[T]here is no individual employee liability under Title VII."). In her objection to the Motion to Dismiss, Beauchesne clarified that her retaliation claim against Lawrence in her individual capacity lies solely under RSA 354-A. See Doc. No. 13-1 at pg. 17. Accordingly, Defendants' Motion to Dismiss the Title VII retaliation claim against Lawrence is granted.

alleged that she engaged in protected conduct, Count IV is dismissed and there is no need to reach Defendants' second argument.

"An employee has engaged in activity protected by Title VII if she has either (1) opposed any practice made an unlawful employment practice by Title VII or (2) made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Title VII." Fantini, 557 F.3d at 32 (internal citations and quotation marks omitted). "The one is known as the 'opposition clause,' the other as the 'participation clause[.]'" Crawford v. Metro. Gov't of Nashville & Davidson Cnty., Tenn., 555 U.S. 271, 274 (2009). Here, Beauchesne proceeds under the opposition clause and alleges that Defendants retaliated against her for opposing Lawrence's discriminatory conduct. See Doc. No. 13-1 at pgs. 15-16.

"When an employee communicates to her employer a belief that the employer has engaged in a form of employment discrimination, that communication virtually always constitutes the employee's opposition to the activity." Crawford, 555 U.S. at 276 (cleaned up). The employee's opposition need not take the form of a formal complaint. See id. at 276-77. However, "to qualify as protected activity, an employee's statement to his employer must provide adequate specificity to alert the employer that the employee is, in fact, complaining about conduct proscribed by Title VII." Rolfs, 971 F. Supp. 2d at 216.

Defendants contend that Count IV fails because "there are no allegations of pushback" in the Complaint that rise to the level of protected opposition, and therefore, the Complaint does not allege a critical element of a retaliation claim – that the employee engaged in protected activity. Doc. No. 7-1 at pg. 14. In her objection, Beauchesne argues that she "repeatedly made her opposition known to . . . Lawrence[.]" Doc. No. 13-1 at pgs. 15-16.

The Complaint does not support Beauchesne's contention that she "repeatedly made her opposition known" in a manner that supports a retaliation claim Doc. No. 13-1 at pg. 15. Indeed, the Complaint does not assert any facts that demonstrate that Beauchesne even communicated her opposition to Lawrence's conduct. Beauchesne alleges that she responded to Lawrence's unwelcome conduct in subtle ways to preserve her job. Doc. No. 1-1 at ¶ 13. For instance, one way in which Beauchesne responded to Lawrence's alleged discrimination was by ignoring or not responding to Lawrence's advances. See id. at ¶ 13 ("Beauchesne tried to discourage . . . Lawrence's advances by not responding to them at all"); id. at ¶ 39 (alleging that Beauchesne did not respond to a "rapturous text" from Lawrence). Another way that Beauchesne reacted to Lawrence's allegedly illegal conduct was by responding "vaguely or obliquely." see, e.g., id. at ¶ 21 (rejecting an invitation to attend a cookout by responding, "'Thanks.'"); id. at ¶ 32 (alleging that Beauchesne "obliquely responded" when Lawrence texted a magazine story about the love affair between two prominent women); id. at ¶ 37 (alleging that Beauchesne "obliquely denied" a coffee invite and "wished [Lawrence] a nice weekend"). Finally, Beauchesne responded to Lawrence's advances by declining Lawrence's invitations with claims of other obligations. See id. at ¶ 16 ("Ms. Beauchesne again discouraged Defendant Lawrence's advances by responding that she had other tasks scheduled . . . ."); id. at ¶ 20 (declining a pool invitation "stating she had to go to a track meet."). Even when these allegations are viewed in the light most favorable to Plaintiff, none of these responses "pointed out discrimination or discriminatory practices [to Defendants]. . . nor specified conduct that [Plaintiff] purportedly opposed." Rolfs, 971 F. Supp. 2d at 216 (citations omitted). Thus, Plaintiff's so-called opposition does not rise to the level of protected conduct.

Notwithstanding this conclusion, Beauchesne points to Lawrence's text messages stating that Lawrence "got it" and would "move on" as evidence that Lawrence understood Beauchesne's refusals as an opposition to illegal discrimination. Doc. No. 13-1 at pgs. 15-16; see Doc. No. 1-1 at ¶ 16. Relying on Rolfs, Beauchesne contends that Lawrence's acknowledgement of the admonition converted Beauchesne's responses to the conduct into protected opposition. Doc. No. 13-1 at pgs. 15-16. The court disagrees.

In Rolfs, this court found that standing alone, plaintiff's words "'Come on, Gene'" in response to his district manager's sexualization and "boorishness" towards a female customer and suggestions that plaintiff have sex with the customer did not constitute protected activity because the words "neither pointed out discrimination or discriminatory practices . . . nor specified the conduct that Rolfs purportedly opposed." Rolfs, 971 F. Supp. 2d at 216 (citations omitted). Although the statement alone did not constitute protected activity, the Rolfs court found the fact that the manager "engaged in no further in-store boorishness" after plaintiff's admonishment was "good evidence that . . . [the manager] himself regarded those words as a complaint about his in-store boorishness." Id.

Like in Rolfs, Beauchesne's responses to Lawrence, on their own, do not constitute protected activity. Unlike in Rolfs, however, the Complaint does not allege sufficient facts to demonstrate that Lawrence understood Beauchesne's responses as a complaint of discrimination. Despite Lawrence's messages that she "Got it" and would "move on," Doc. No. 1-1 at ¶ 16 (quotations omitted), throughout the spring and summer of 2022, Lawrence "continued to invite Ms. Beauchesne to engage in joint activities with her and her children," which Beauchesne "believed to be primarily as an excuse to see her . . . ." Id. at ¶¶ 17; see id. at ¶¶ 19-21. And in September 2022, Beauchesne alleges that Lawrence sent her a "magazine story about a love affair

between two prominent women, together with their love poems." Id. at ¶ 32. Thus, unlike in Rolfs, the Complaint lacks sufficient facts from which the court can reasonably conclude that Lawrence regarded Beauchesne's responses as opposition to alleged discrimination.

For these reasons, the court concludes the Complaint fails to sufficiently allege that Beauchesne engaged in a "protected activity." Therefore, the Complaint fails to allege a claim for retaliation under both Title VII and RSA 354-A. Accordingly, Defendants' motion to dismiss Count IV is granted.

V. Wrongful Discharge (Count V)

In Count V (Wrongful Discharge) Beauchesne alleges that AEX wrongfully discharged her because she "complained of activities of discrimination and retaliation," Doc. No. 1-1 at ¶ 68, resisted Lawrence's romantic advances, and "declined to perform other tasks which were 'unethical and/or illegal, and contrary to public policy.'" Doc. No. 13-1 at pg. 17 (quoting Doc. No. 1-1 at ¶ 42); see also Doc. No. 1-1 at ¶¶ 67-70. To state a claim for wrongful discharge under New Hampshire law, a plaintiff must sufficiently allege: "(1) the employer terminated the employment out of bad faith, malice, or retaliation; and (2) the employer terminated the employment because the employee performed acts that public policy would encourage or because she refused to perform acts that public policy would condemn." Donovan v. S. New Hampshire Univ., 175 N.H. 489, 492 (2022).

Defendants argue that Beauchesne's "wrongful discharge claim fails because she has not sufficiently alleged that she performed activities public policy would encourage or that she was terminated out of bad faith, malice or retaliation." Doc. No. 7-1 at pg. 16. Defendants further contend that Beauchesne's "alleged pushback to activities of discrimination" and Lawrence's alleged acknowledgment of the same "are not enough to plausibly claim [Beauchesne] was

terminated six months later" because of Plaintiff's pushback. Doc. No. 7-1 at pg. 16 (quotation marks omitted).

A. Gender Discrimination as a Basis for Wrongful Termination.

The court agrees that Beauchesne's "alleged pushback to activities of discrimination" do not provide a basis for a wrongful discharge claim in this case. Doc. No. 7-1 at pg. 16. As previously discussed, the Complaint does not sufficiently allege that Beauchesne communicated her opposition to discrimination to Defendants. Therefore, AEX could not have terminated Plaintiff for this reason. Accordingly, opposition to discrimination and retaliation cannot be the basis of a wrongful discharge claim.

However, to the extent that Beauchesne alleges that she was terminated for "not submitting to the sexual harassment and unwanted advances" (i.e. quid pro quo discrimination), Doc. No. 1-1 at ¶ 45, at this stage, she satisfies the public policy prong of her wrongful discharge claim. See McNeil v. Health Care & Rehab. Servs., No. 23-cv-2-AJ, slip op. at 8-9 (D.N.H. Apr. 17, 2023) ("Courts have held that allegations or evidence of discrimination in the workplace are sufficient to satisfy the public policy element of a wrongful discharge claim." (citing cases)).

Beauchesne alleges that Lawrence asked to date her in the summer/fall of 2021, reiterated that she liked her a lot in March 2022, and then invited her on several non-work-related outings thereafter, many of which Beauchesne declined to participate in. See Doc. No. 1-1 at ¶¶ 12, 13, 15-16. Beauchesne further alleges that in June 2022, Lawrence asked to spend the night at Beauchesne's home. Id. at ¶ 19. Although Beauchesne initially agreed to the arrangement, she later reconsidered her decision. Id. Less than a month later, Beauchesne received a disciplinary email from Lawrence, and Lawrence "began threatening [Plaintiff] with termination several times per week." Id. at ¶ 23-24 (quotation marks omitted). Eventually, Lawrence terminated Plaintiff,

approximately three months after Beauchesne refused Lawrence's request to spend the night. See id. at ¶ 40.

These allegations are sufficient to establish that AEX terminated Beauchesne because she did not submit to Lawrence's romantic advances. See Calero-Cerezo v. U.S. Dept. of Justice, 355 F.3d 6, 26 (1st Cir. 2004) (permitting an inference of causation when one month elapsed between protected activity and adverse action); Jones v. Walgreen Co., 679 F.3d 9, 21 (1st Cir. 2012) (inference of causation when three and a half months elapsed between protected activity and an adverse employment action). Additionally, these allegations sufficiently establish that the termination was in bad faith. Accordingly, Beauchesne successfully states a claim for wrongful discharge on this basis, and Defendants' motion is denied in this regard.

B. Refusing to Engage in Illegal Conduct as a Basis for Wrongful Termination

Beauchesne's remaining allegations – that she was terminated in part because of her refusals to illegally forge payroll checks for Lawrence or assist her in defrauding the Portsmouth school district – satisfy the public policy prong of a wrongful discharge claim for purposes of a motion to dismiss. See Doc. No. 13-1 at pgs. 17-18; see also Doc. No. 1-1 at ¶ 42. Unauthorized signature of checks and falsification of a child's residency for purposes of school attendance are both illegal in New Hampshire, see RSA 638:1 (forgery); RSA 193:12, I (school district legal residence requirement), and Beauchesne alleges she was terminated due to her refusal to engage in these illegal activities. Doc. No. 1-1 at ¶¶ 42, 72. The analysis does not end here, however.

"To prevail on her wrongful termination claim, [a plaintiff] must prove not only that she engaged in acts that public policy would encourage, but also that [the defendant] fired her because of those acts." Grivois v. Wentworth-Douglass Hosp., No. 12-cv-131, 2014 WL 309354, at * 9 (D.N.H. Jan. 28, 2014) (citing Short v. Sch. Admin. Unit No. 16, 136 N.H. 76, 85 (1992)). "The

question at . . . [the motion-to-dismiss stage] is not 'the likelihood that a causal connection will prove out as fact.'" Roman-Oliveras v. Puerto Rico Elec. Power Auth., 655 F.3d 43, 50 (1st Cir. 2011) (quoting Sepulveda-Villarini v. Dept. of Educ. of P.R., 628 F.3d 25, 30 (1st Cir. 2010)). "Rather, 'the standard is plausibility assuming the pleaded facts to be true and read in a plaintiff's favor.'" Id. (quoting Sepulveda-Villarini, 628 F.3d at 30).

Here, the protected activity – refusing to sign checks for Lawrence and refusing to defraud the Portsmouth school district – occurred in January of 2022 and late 2021/early 2022, but Beauchesne was terminated on September 19, 2022, approximately eight months later. See Roman v. Hyannis Air Serv., Inc., No. 23-1744, 2025 WL 2693402, at *5 (1st Cir. Sept. 22, 2025) ("Close temporal proximity between the protected conduct and the adverse employment action may suffice at the prima facie stage to evidence causation between the protected activity and the adverse action."). "But those 'cases that accept mere temporal proximity as sufficient evidence of causality to establish a prima facie case uniformly hold that the temporal proximity must be very close.'" Id. (internal quotations and ellipsis omitted) (quoting Clark Cnty. Sch. Dist. v. Breeden, 532 U.S. 268, 273 (2001) (citation omitted)). Aside from temporal proximity, however, the Complaint lacks any other allegations connecting the protected activity with Beauchesne's eventual termination. Absent additional facts demonstrating a causal connection between the protected activity and Plaintiff's termination, eight months is too long to establish a causal link. See Colburn v. Parker Hannifin/Nichols Portland Division, 429 F.3d 325, 338 (1st Cir. 2005) (concluding that for purposes of Title VII retaliation, no retaliatory motive may be inferred because the plaintiff was terminated almost four months after engaging in the protected conduct). Because Beauchesne does not sufficiently allege that she was wrongfully discharged because she refused to engage in illegal activities, her retaliation claim cannot proceed on this basis.

Accordingly, for the foregoing reasons, Defendants' motion to dismiss Count V is granted to the extent that Plaintiff's wrongful discharge claim is based on Beauchesne's opposition to discrimination and refusal to engage in illegal activities. Otherwise, the motion is denied.

VI. Whistleblower Claim (Count VI)

Beauchesne's final cause of action consists of a claim against both defendants for violations of the New Hampshire Whistleblowers' Protection Act (the "Act"), which states in relevant part:

> I. No employer shall harass, abuse, intimidate, discharge, threaten, or otherwise discriminate against any employee regarding compensation, terms, conditions, location, or privileges of employment because:
>
> (a) The employee, in good faith, reports or causes to be reported, verbally or in writing, what the employee has reasonable cause to believe is a violation of any law or rule adopted under the laws of this state, a political subdivision of this state, or the United States; or
>
> (b) The employee objects to or refuses to participate in any activity that the employee, in good faith, believes is a violation of the law[.]

RSA 275-E:2, I. The Act further states:

> No employer shall discharge, threaten or otherwise discriminate against any employee regarding such employee's compensation, terms, conditions, location, or privileges of employment because the employee has refused to execute a directive which in fact violates any law or rule adopted under the laws of this state, a political subdivision of this state, or the United States.

RSA 275-E:3.

To state a prima facie claim under the Act, the employee must allege that: "(1) [s]he engaged in an act protected by the whistleblowers' protection statute; (2) [s]he suffered an employment action proscribed by the whistleblowers' protection statute; and (3) there was a causal connection between the protected act and the proscribed employment action." In re Seacoast Fire Equip. Co., 146 N.H. 605, 608 (2001).

Defendants argue that Beauchesne fails to allege that she engaged in the requisite protected activity. Doc. No. 7-1 at pgs. 17-19. Defendants also argue that Beauchesne fails to sufficiently allege the requisite causal connection. Id. at pgs. 19-20. Because the court agrees that Beauchesne does not state sufficient facts to establish a causal connection between the protected activity and the adverse employment action, the court grants Defendants' motion to dismiss Count VI.

A. Protected Activity

Under RSA 275-E:2, I(a), an employee is entitled to the protections of the Act where "[t]he employee, in good faith, reports or causes to be reported, verbally or in writing, what the employee has reasonable cause to believe is a violation of any law or rule adopted under the laws of this state, a political subdivision of this state, or the United States." "Good faith," in the RSA 275-E context, means "'absence of malice' and 'honesty of intention.'" Appeal of Osram Sylvania, Inc., 142 N.H. 612, 617 (1998) (quoting Black's Law Dictionary 693 (6th ed 1990)). "Whether an employee had 'reasonable cause to believe' is an objective question; namely, whether 'a reasonable person might have believed that the employer was acting unlawfully.'" Id. at 618 (quoting Bard v. Bath Iron Works Corp., 590 A.2d 152, 155 (Me. 1991)). An employee reporting a violation under RSA 275-E is not required to "to cite to the alleged violation" because "to impose such a requirement would exclude an unsophisticated employee from the protections of the Act simply because he or she failed to invoke a specific law that the employer has allegedly violated." Appeal of Fred Fuller Oil Co., 144 N.H. 607, 610-11 (2000). Instead, courts "presume that an employer is familiar with the laws and regulations governing its business and . . . consider a report to have been made if a reasonable employer would have understood from an employee's complaint that the employee was reciting a violation of law." Id. at 611.

Beauchesne's whistleblower claim is premised on her objection to her supervisor's advances and her refusal to sign payroll checks for Lawrence or to allow Lawrence to use Beauchesne's address for purposes of school registration. See Doc. No. 1-1 at ¶¶ 72-73; see also Doc. No. 13-1 at pg.18. For the reasons previously discussed, Beauchesne does not sufficiently allege that she reported or caused to be reported illegal discrimination. Accordingly, Beauchesne fails to state a whistleblower claim in this regard.

Beauchesne does sufficiently allege that she objected to or refused to participate in activities that she believed to be in violation of the law. She alleges that she "declined to perform tasks Defendant Lawrence had requested which were unethical and/or illegal[.]" Doc. No. 1-1 at ¶ 42. More specifically, Beauchesne alleges that in January 2022, she "told Defendant Lawrence she could not sign" payroll checks because she was not a signatory on any AEX bank accounts. Doc. No. 1-1 at ¶ 42(a). Beauchesne also alleges that in late 2021/early 2022, she refused to allow Lawrence to defraud the Portsmouth school district by permitting Lawrence to use Beauchesne's home address so Lawrence's son could attend school in Portsmouth, rather than in Rye, the town in which Lawrence resided.[5] Id. at ¶ 42(b).

The court is not persuaded by Defendants' argument that Beauchesne failed to allege a protected activity because Beauchesne did not "allege what was illegal," or "that what she was asked to do 'in fact violate[d] any law or rule.'" Doc. No. 7-1 at pg. 18. The law does not impose that requirement. See Appeal of Fred Fuller, 144 N.H. at 611. Therefore, Beauchesne established the first element of a whistleblower claim with respect to the portion of her claim concerning her refusal to violate state law.

[5] As stated previously, signing checks without authorization is a felony under New Hampshire law. See RSA 638:1. Falsification of a child's residency for purposes of school attendance is also illegal. See RSA 193:12, I.

B. Causal Connection

Although Beauchesne sufficiently alleged a protected activity, dismissal is still warranted. As discussed in relation to Plaintiff's wrongful termination claim, the Complaint does not allege a "causal connection between the protected act and the proscribed employment action" beyond mere temporal proximity. In re Seacoast Fire Equip. Co., 146 N.H. at 608. Here, no retaliatory motive may be inferred where the time between the protected activity and the employment action is approximately eight months. See Colburn, 429 F.3d at 338. Thus, as with that portion of the wrongful termination claim, the absence of a causal link is fatal to Plaintiff's whistleblower claim. Therefore, Defendants' motion to dismiss Count VI is granted.

CONCLUSION

For the foregoing reasons, Defendant's motion to dismiss (Doc. No. 7) is granted in part as to Count V (Wrongful Discharge) as provided in this order, and as to Counts IV (Retaliation) and VI (Whistleblower's Protection Act) in their entirety. The motion is otherwise denied.

SO ORDERED.

Talesha L. Saint-Marc
United States Magistrate Judge

September 30, 2025

cc: Counsel of Record