

The party moving for summary judgment must demonstrate an absence of evidence to support the nonmoving party's case. *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986). In determining whether this burden is met, the court must view the record in the light most favorable to the nonmoving party and give that party the benefit of all reasonable inferences in its favor. *Nicolo v. Philip Morris, Inc.*, 201 F.3d 29, 33 (1st Cir. 2000). Once the moving party has made a preliminary showing that no genuine issue of material fact exists, the nonmovant must "produce specific facts, in suitable evidentiary form, to establish the presence of a trialworthy issue." *Triangle Trading Co. v. Robroy Indus., Inc.*, 200 F.3d 1, 2 (1st Cir. 1999) (citation and internal punctuation omitted); Fed. R. Civ. P. 56(e). "As to any essential factual element of its claim on which the nonmovant would bear the burden of proof at trial, its failure to come forward with sufficient evidence to generate a trialworthy issue warrants summary judgment to the moving party." *In re Spigel*, 260 F.3d 27, 31 (1st Cir. 2001) (citation and internal punctuation omitted).

II. Factual Background

The statements of material facts submitted by the parties include the following undisputed material facts appropriately supported by citations to the summary judgment record.

The plaintiff was employed by the police department of the defendant city from 1991 to 2001 as a court coordinator or court officer. Defendant Royal Marcoux' Statement of Material Facts in Support of Motion for Summary Judgment ("Marcoux SMF") (Docket No. 10) ¶ 1; Plaintiff's Statement of Opposing Facts and Additional Material Facts, etc. ("Plaintiff's Responsive Marcoux SMF") (Docket No. 22) ¶1. Defendant Marcoux is a career law enforcement officer with the Biddeford Police Department. *Id.* ¶ 2. Marcoux began with the police department as a patrolman in 1974 and was promoted through the ranks, becoming a captain in 1988. *Id.* ¶¶ 3-4. He has served as a deputy chief since August 2002. *Id.* ¶¶ 4, 6.

When she started her employment as court officer, the plaintiff's immediate supervisor was Deputy Chief Benoit L. Martin. Defendant City of Biddeford's Statement of Material Facts in Support of Motion for Summary Judgment ("Biddeford SMF") (Docket No. 18) ¶ 8; Plaintiff's Statement of Opposing Facts and Additional Material Facts, etc. ("Plaintiff's Responsive Biddeford SMF") (Docket No. 19) ¶ 8. Before the plaintiff was hired, the position of court officer had been filled by a police officer. *Id.* ¶ 9. The job description was changed in order to place a civilian in that role. *Id.* ¶¶ 12-13. The plaintiff was paid at the rate established for her position. *Id.* ¶ 24. In 1992 the plaintiff was promoted from Secretary I to Secretary II, pay scale positions that are part of a negotiated collective bargaining agreement. *Id.* ¶¶ 22-23. Material regarding sexual harassment was circulated within the police department and was included as part of the collective bargaining agreement. *Id.* ¶ 18. The plaintiff received pay raises in accordance with collective bargaining agreements. *Id.* ¶ 34.

Sergeant Morin later became the plaintiff's immediate supervisor. *Id.* ¶ 26. Marcoux was the plaintiff's supervisor for a very short time when he was the captain of operations. Marcoux SMF ¶ 8; Plaintiff's Responsive Marcoux SMF ¶ 8. Marcoux and the plaintiff only had contact when an officer scheduled for trial did not appear or when the district attorney wanted things changed. *Id.* ¶ 9. The plaintiff had no particular problems or issues with Marcoux while he was supervising her. *Id.* ¶ 10.

During June 1994 the plaintiff filed four labor grievances, which included allegations of pay inequity and unfair distribution of overtime. Biddeford SMF ¶ 31; Plaintiff's Responsive Biddeford SMF ¶ 31. After the hearing on her grievances, the plaintiff continued with the pay grade of Secretary II. *Id.* ¶ 32.

On approximately October 1, 1999 Jo Anne Fisk, director of public safety communications for the police department, took over supervisory responsibility for records personnel in the department, which included the plaintiff as court officer. *Id.* ¶ 35. Karen Lord, a police department dispatcher, is

a subordinate of Fisk. *Id.* ¶¶ 40-41. Lord has never been disciplined for engaging in inappropriate or unprofessional behavior. *Id.* ¶ 43.

The plaintiff was away from her job on maternity leave from October 27, 1999 to March 1, 2000. *Id.* ¶ 47. Biddeford Police Department General Order No. 153-97, effective November 15, 1997, sets forth the department's Family Medical Leave Act ("FMLA") policy, under which the plaintiff would be entitled to 12 weeks of unpaid leave for the birth of a child. *Id.* ¶¶ 48-49. On August 19, 1999 the plaintiff in writing requested sick time for November 4 and 5, vacation time for November 8-22, holiday time for November 23, 24 and 26 and unpaid FMLA leave from November 29, 1999 to February 24, 2000. *Id.* ¶¶ 50, 52-53. This request was approved. *Id.* ¶ 54. As a result of the medical leave, the duties of the court officer were distributed among other employees in the department. *Id.* ¶ 76. During the plaintiff's absence Fisk assisted in the court coordinator function. *Id.* ¶ 57. She was very familiar with the court process because of her previous experience as a court officer for the Kennebunk Police Department. *Id.* ¶ 59. When the plaintiff returned from her leave, Fisk continued to receive telephone calls regarding court matters. *Id.* ¶ 60. The plaintiff went to Fisk on at least two occasions demanding an explanation as to why the receptionist had given court calls to Fisk instead of the plaintiff. *Id.* ¶ 64. When the plaintiff returned from her leave, she assumed the position of court officer at the same rate of pay and with the same benefits she had had previously. *Id.* ¶ 78.

On August 21, 2000 Marcoux was assigned an internal affairs investigation concerning a complaint by David Welch against Officer Monteith. *Id.* ¶ 92. After receiving the assignment Marcoux met with Monteith and gave him written notice of the complaint. *Id.* ¶ 93. Marcoux directed Monteith not to have any direct or indirect contact with any member of the Welch family. *Id.* ¶ 94. Marcoux was aware that Monteith had stopped David Welch earlier that day. *Id.* ¶ 95. Monteith had

been involved in a relationship with Lori Abbott Welch, wife of David Welch, in the spring and summer of 2000. Marcoux SMF ¶ 14; Plaintiff's Responsive Marcoux SMF ¶ 14. David Welch had confronted Monteith and warned him to stay away from Welch's wife. *Id.* ¶ 15. Before this confrontation, Monteith had never stopped David Welch for any traffic violations. *Id.* ¶ 16. Monteith's kayak was stolen on June 26, 2000. *Id.* ¶ 18. Monteith began investigating the theft himself, including driving by the Welch residence. *Id.* ¶ 24. Monteith issued summonses for traffic violations to David Welch on August 10, 15 and 21 and September 18, 2000. *Id.* ¶ 25.

David Welch's complaint alleged that Monteith was harassing him, abusing his authority by issuing him traffic citations and ruining his reputation by accusing him of the theft of Monteith's kayak. *Id.* ¶ 27. On August 15, 2000 Sergeant Michaud of the Biddeford Police Department informed Monteith that he had been leaving his patrol area without authorization and that Marcoux wanted this practice to stop. *Id.* ¶¶ 28-31. Michaud also asked Monteith about a summons he had issued to David Welch for littering and advised Monteith that he had used poor judgment in doing so. *Id.* ¶¶ 34-36. Monteith explained that he had problems with both Lori and David Welch. *Id.* ¶¶ 36-40. Michaud felt that Monteith was on the verge of abusing his power in dealing with Lori and David Welch. *Id.* ¶ 44. Michaud reported the substance of his conversation with Monteith to Marcoux. *Id.* ¶ 45.

As David Welch was leaving the police department after turning in his written complaint against Monteith on August 21, 2000, Monteith pulled him over and issued a summons for a seat belt violation. *Id.* ¶¶ 48-49. When Marcoux met with Monteith later that day, he told Monteith that he believed the summons was illegal because in his opinion there was no probable cause for the stop. *Id.* ¶ 56. Chief Beaupre told Marcoux to tell David Welch to disregard the charge since Monteith was going to take the summons back. Biddeford SMF ¶ 99; Plaintiff's Responsive Biddeford SMF ¶ 99. On August 22, 2000 Marcoux drove by the Welch residence and determined that it was out of

Monteith's patrol area. Marcoux SMF ¶ 59; Plaintiff's Responsive Marcoux SMF ¶ 59. Michaud later found the summons that Monteith had issued to David Welch on August 21, 2000 for the seatbelt violation and brought it to Marcoux. *Id.* ¶ 60.¹

As part of his investigation, Marcoux asked the plaintiff to gather all the traffic tickets that Monteith had written to David Welch including the summons written on August 21, 200 for the seatbelt violation. *Id.* ¶ 69.² The plaintiff complied with this request the same day. *Id.* ¶ 70. The plaintiff was not aware that the August 21, 2000 summons was based on a violation of failure to wear a seatbelt. Biddeford SMF ¶ 103; Plaintiff's Responsive Biddeford SMF ¶ 103. Marcoux removed the August 21, 2000 summons and gave it to Chief Beaupre for evidence in the investigation. Marcoux SMF ¶ 72; Plaintiff's Responsive Marcoux SMF ¶ 72. The plaintiff did not ask Marcoux why he kept that particular summons. *Id.* ¶ 73. She was not aware that Marcoux was conducting an investigation of Monteith based on David Welch's complaint. *Id.* ¶ 74. In October 2000 Monteith asked the plaintiff to retrieve all traffic summonses as the David Welch cases had been set for trial. Biddeford SMF ¶ 119; Plaintiff's Responsive Biddeford SMF ¶ 119. At this time Monteith learned that Marcoux had not processed the ticket for the seatbelt violation and the plaintiff told him of Marcoux's request concerning that summons. *Id.* ¶ 120.

On September 8, 2000 Marcoux issued his findings on David Welch's complaint against Monteith. Marcoux SMF ¶ 77; Plaintiff's Responsive Marcoux SMF ¶ 77. He found that Monteith had harassed David Welch, including by issuing him a summons for a seatbelt violation without probable

¹ The plaintiff purports to deny this paragraph of Marcoux's statement of material facts, stating only "Foundation, Hearsay." Plaintiff's Responsive Marcoux SMF ¶ 60. The portion of the paragraph which I have included in the recitation of facts above is properly supported by the reference cited in support by Marcoux, is not hearsay and, to the extent that such an objection is appropriate in the summary judgment context, has no foundational problem. The denial also cites record material to dispute the date given in the Marcoux statement, and I have not included the date, which is not material with respect to the pending motions.

² The plaintiff purports to deny this paragraph of Marcoux's statement of material facts. Plaintiff's Responsive Marcoux SMF ¶ 69. However, the paragraph of her affidavit that the plaintiff cites in support of this denial does not controvert any of the factual allegations included in paragraph 60 of the Marcoux statement of material facts, which is supported by the citations to the record given there. *(continued on next page)*

cause. *Id.* ¶ 78. He also uncovered other violations, including the fact that Monteith was conducting an independent, unassigned and unsanctioned investigation into the theft of his kayak. *Id.* ¶ 80.

The first time that the plaintiff talked with Marcoux about Monteith was in October 2000. *Id.* ¶ 81. At some point, Marcoux informed the plaintiff that he had information she was “hand-in-hand” with Monteith and that he did not want to discuss it further. *Id.* ¶¶ 83,³ 85. This was the only conversation that the plaintiff and Marcoux had about Monteith. *Id.* ¶ 84. Chief Beaupre understood that Marcoux felt that the plaintiff was in collusion with Monteith to create a problem for him and that Marcoux therefore was going to deal with the plaintiff only on official matters. *Id.* ¶ 86. The plaintiff did not ask Chief Beaupre to take any specific action with regard to Marcoux. *Id.* ¶ 92.

Monteith wrote a letter to the city manager regarding complaints concerning the David Welch ticket. *Id.* ¶ 101. Copies of the letter were sent to an assistant attorney general and the York County district attorney’s office. *Id.* ¶ 102. Monteith alleged in the letter that Marcoux had tampered with police records and was harassing him and providing a hostile work environment. *Id.* ¶ 103. Chief Beaupre did not investigate these allegations because it was his opinion that there was nothing to investigate. *Id.* ¶ 107. The city manager responded to Monteith’s letter on November 30, 2000, advising him that he believed Monteith’s complaint was a matter that needed to go through the union grievance process. *Id.* ¶ 116. Neither the plaintiff, Monteith nor Marcoux was interviewed by the attorney general’s office. *Id.* ¶¶ 109-11. The plaintiff talked with a representative of the union about her concerns with Marcoux; the union did not take any action based on her complaints. *Id.* ¶¶ 114-15. Monteith spoke to his union representatives, but they declined to proceed on his complaint. *Id.* ¶ 117. Monteith then wrote a letter to the Biddeford Police Commission, which took no action on his

Accordingly, the paragraph is deemed admitted.

³ The plaintiff purports to deny this paragraph of Marcoux’s statement of material facts, Plaintiff’s Responsive Marcoux SMF ¶ 83, but the citation in support of that denial does not address any of the factual assertions made in that paragraph of Marcoux’s statement of (continued on next page)

complaint. *Id.* ¶¶ 118, 122. The Commission believed it was a matter subject to the union grievance process. *Id.* ¶ 123.

In September 2000 the plaintiff asked to take on the responsibility of scheduling felony case screenings and Fisk agreed. Biddeford SMF ¶ 108; Plaintiff's Responsive Biddeford SMF ¶ 108. At some point, the plaintiff became upset that Fisk had taken away her telephone. *Id.* ¶ 113. Fisk and the plaintiff subsequently had a meeting at which the plaintiff accused Fisk of minimizing her job. *Id.* ¶ 114. After she returned from her leave, the plaintiff did not file a grievance with the union about the transfer of some of her job responsibilities. *Id.* ¶ 117.

A newly-hired employee of the Biddeford police department receives sexual harassment training during orientation by the city's human resources department. *Id.* ¶ 192. The city has a written sexual harassment policy. *Id.* ¶¶ 193-94. The Biddeford Police Department's Uniform Standards of Conduct prohibit discrimination or adverse impact on the basis of sex. *Id.* ¶ 195. All employees are given a copy of the collective bargaining agreement, which includes a copy of the city's sexual harassment policy. *Id.* ¶ 196. A copy of the sexual harassment notice is attached to each employee's paycheck once a year. *Id.* ¶ 197. Once a year, the training officer shows a video on sexual harassment. *Id.* ¶ 200.

Lord told the plaintiff that she looked sexy every day. *Id.* ¶ 212. Lord has made the same comment to other people. *Id.* ¶ 213. The plaintiff participated in banter of a sexual nature while employed by the Biddeford police department and occasionally used foul language. *Id.* ¶¶ 215-16. The crude comments about which the plaintiff complains came from Lord and Norman Gaudette only. *Id.* ¶ 221. The plaintiff worked overtime in dispatch for about a year, for which she was paid time and one half of the dispatcher's prevailing pay rate. *Id.* ¶¶ 224-25. During 1995 the plaintiff was offered

material facts. Because the citation to the record given by Marcoux supports those assertions, they are deemed admitted.

overtime for assisting with the Pro Active Response Team on Domestic Violence; she refused to participate. *Id.* ¶¶ 226, 228.

The plaintiff stated that she worked so hard and had so much work to do that she needed her own secretary, a private work space and more respect from the district attorney's office, some of the court clerks, the assistant district attorneys and some of the police officers. *Id.* ¶ 231. The chief dealt favorably with her requests for a fax machine, office furniture and an upgrade of her computer. *Id.* ¶ 229. Some of her requests to the chief were unreasonable. *Id.* ¶ 230. Fisk told the chief that the plaintiff complained to her about wanting more work and more meaningful involvement in department record keeping or strategies, and that she wanted more of a challenge. *Id.* ¶ 235. The chief and Fisk discussed whether something else would be available for the plaintiff. *Id.* ¶ 236.

On February 20, 2001 the plaintiff tendered her resignation, which was to be effective March 7, 2001. *Id.* ¶ 176. She was actually separated from employment on February 23, 2001. *Id.* ¶ 177.

On April 26, 2001 the plaintiff filed a charge of discrimination against the Biddeford police department with the Maine Human Rights Commission. *Id.* ¶ 242. On the same day, the city received a notice of claim from the plaintiff's attorney. *Id.* ¶ 246. From September 2000 through September 2001 the city was insured by Legion Insurance Company, which provided a certificate of coverage only to the extent that immunity from suit was waived by statute. *Id.* ¶¶ 247-48.

III. Discussion

A. The Marcoux Motion

Count VI of the amended complaint, the only count asserted against Marcoux, alleges that the plaintiff's "First Amendment rights of speech and association were violated" when Marcoux allegedly made verbal and physical threats to her "after she spoke out about his ticket fixing scheme, was identified as a witness and participated in an investigation." First Amended Complaint, etc. (Docket

No. 2) ¶ 17. Marcoux contends that the plaintiff did not engage in any constitutionally protected speech, that any right the plaintiff may have had to associate with Marcoux must yield to the government's interest in disciplining police officers and, in the alternative, that he is protected from the plaintiff's claim by the doctrine of qualified immunity. Defendant Royal Marcoux' Motion for Summary Judgment, etc. ("Marcoux Motion") (Docket No. 9) at 6-14. In response, the plaintiff discusses only her right to freedom of speech, Plaintiff's Objection to Defendant Royal Marcoux' Motion for Summary Judgment ("Plaintiff's Marcoux Objection") (Docket No. 21) at 4-7; accordingly, any claim that Marcoux impermissibly infringed upon her associational rights under the First Amendment must be deemed to have been waived, *Graham v. United States*, 753 F. Supp. 994, 1000 (D. Me. 1990), and I will not discuss this aspect of First Amendment law any further.

Specifically, the plaintiff identifies the following as the speech at issue:

When in the normal course of affairs at the Biddeford Police Department Officer Monteith asked the plaintiff for all the Welch tickets in anticipation of the upcoming trial, she told him that the August 21, 2000 ticket had been taken out of the files by Defendant Marcoux. It was the plaintiff's job as the Court Officer to report accurately the location of court documents needed for trial, including the whereabouts of tickets. The City of Biddeford reasonably expects its employees to report accurately upon and freely discuss its official public business.

Plaintiff's Marcoux Objection at 4 (footnote omitted). This was a statement by the plaintiff made only to Monteith. She contends that the statement "was in the public interest and constitutionally protected speech." *Id.* at 5. She asserts that, when she "was later identified as the source of this information in Monteith's complaint of harassment against Marcoux," she was "falsely accused of being in cahoots" with Monteith, "retaliated against and threatened," and that "it was [her] reasonable inference from the threats made by Marcoux that she not speak to anyone who might investigate Monteith's complaints." *Id.* 5-6.

In support of these assertions, the plaintiff offers the following factual allegations in her statement of material facts, all of which are disputed by Marcoux: Marcoux has a reputation at the Biddeford Police Department as a sniper from the Vietnam War,⁴ a diamond courier and an angry unpleasant individual, [Plaintiff's Statement of] Additional Facts, included in Plaintiff's Responsive Marcoux SMF at 8-10, ¶ 130; after seeing Monteith's complaint to the city manager, Marcoux met with the plaintiff in his office and told her "you're on my list" and "you are going down," *id.* ¶ 134; and Marcoux subsequently made threats by walking close to the plaintiff while whistling very loudly, pointing his finger at her in a menacing way, refusing to speak to her about everyday police matters and telling her that she "messed with the wrong guy this time," *id.* ¶ 135.

In order to establish that Marcoux infringed on her First Amendment right to freedom of speech, the plaintiff, who clearly engaged in the speech at issue as a public employee, must show that the speech was "on a matter of public concern, and the employee's interest in expressing herself on this matter [was] not outweighed by any injury the speech could cause to the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees." *Waters v. Churchill*, 511 U.S. 661, 668 (1994) (plurality opinion) (citation and internal punctuation omitted). If the speech at issue "cannot be fairly characterized as constituting speech on a matter of public concern," the analysis need go no further. *Connick v. Myers*, 461 U.S. 138, 146 (1983).

[W]hen a public employee speaks not as a citizen upon matters of public concern, but instead as an employee upon matters only of personal interest, absent the most unusual circumstances, a federal court is not the appropriate forum in which to review the wisdom of [action] taken by a public agency allegedly in reaction to the employee's behavior.

⁴ The plaintiff's statement of material fact asserts that Marcoux had had reputation in the department as a "paid assassin" from the Vietnam War, Plaintiff's Responsive Marcoux SMF ¶ 130, but the citations offered in support of that assertion demonstrate at most a reputation as a sniper. One of the supporting citations, to the plaintiff's deposition, would support an assertion that Marcoux told the plaintiff he had been a paid assassin. Deposition of Crystal Martin, Exh. C to Marcoux SMF, at 150-51.

Id. at 147. The burden is on the plaintiff to show that her speech was constitutionally protected. *Mount Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 287 (1977); *see also Padilla-Garcia v. Guillermo Rodriguez*, 212 F.3d 69, 74 (1st Cir. 2000). Here, the plaintiff by her own description was speaking as an employee when she told Monteith that Marcoux had removed the ticket from the department’s files. The subject matter of the communication was of personal interest to Monteith and possibly of personal interest to the plaintiff, but it was not a public communication in any sense and the plaintiff was not speaking as a citizen — that is, in a role other than as an employee of the defendant city. “In assessing whether [the plaintiff’s] speech implicates public concerns, we analyze the content, form, and context of the speech, as revealed by the whole record.” *Tang v. State of Rhode Island, Dep’t of Elderly Affairs*, 163 F.3d 7, 12 (1st Cir. 1998) (citation and internal punctuation omitted). The fact that the subject matter of the speech at issue might be a matter of public concern cannot be determinative, *see, e.g., Gregorich v. Lund*, 54 F.3d 410, 415 (7th Cir. 1995) (fact that employee’s expression concerns topic of public import does not automatically render it protected), when no attempt at public communication of the speech was made, *see generally Walter v. Morton*, 33 F.3d 1240, 1241, 1243 (10th Cir. 1994) (plaintiff’s report of alleged wrongdoing of chief of police to district attorney constitutionally protected). Nor can the plaintiff’s statement to Monteith be transformed into protected speech by Monteith’s report of the same conduct to the city manager. It is the plaintiff’s own speech and the context in which it was made, not what use someone else may have made of it, that determine whether constitutional protections apply. In this case, they do not.

This conclusion makes it unnecessary to consider whether the plaintiff’s free speech interest was outweighed by the defendant city’s interest under the circumstances, whether Marcoux can be held personally liable under the circumstances and whether an adverse employment action was taken against the plaintiff as a result of the speech. It is also unnecessary to consider Marcoux’s alternative

argument that his actions, which, if they occurred as presented by the plaintiff, were hardly worthy of approbation, were protected by the doctrine of qualified privilege.

Marcoux is entitled to summary judgment on the only count of the amended complaint asserted against him.

B. The City's Motion

The amended complaint asserts five counts against the city: sexual harassment and retaliation in violation of state and federal law (Count I); sexual discrimination in violation of state and federal law (Count II); violation of the Maine Whistleblowers' Protection Act, 26 M.R.S.A. § 831 *et seq.*, and the Maine Human Rights Act (Count III); violation of state and federal statutes concerning family medical leave, 26 M.R.S.A. § 843 *et seq.* and 29 U.S.C. § 2614 *et seq.* (Count IV); and negligent hiring and supervision of Jo Anne Fisk, the plaintiff's supervisor (Count V). Amended Complaint ¶¶ 11-16. The defendant city seeks summary judgment on each count.

1. Counts I and II — Title VII. Counts I and II of the amended complaint assert claims under 42 U.S.C. § 2000e (known as "Title VII")⁵ and 42 U.S.C. § 1983. Because the legal standards applicable to the two types of claims differ, I will consider them separately.

The amended complaint alleges discrimination, retaliation and the existence of a hostile work environment under Title VII. The city contends that the plaintiff has not provided sufficient evidence to support any such claims. Defendant City of Biddeford's Motion for Summary Judgment, etc. ("City Motion") (Docket No. 13) at 4-10.⁶

⁵ These counts also assert claims under Maine's Human Rights Act, 5 M.R.S.A. § 4551 *et seq.* The Maine Human Rights Act is interpreted under a standard identical to that applicable to claims asserted under its federal counterpart, 42 U.S.C. § 2000e-2, with respect to the necessary elements of claims of discrimination. *Green v. New Balance Athletic Shoe, Inc.*, 182 F.Supp.2d 128, 135 (D. Me. 2002); *Bishop v. Bell Atlantic Corp.*, 81 F.Supp.2d 84, 90 n.6 (D. Me. 1999). The parties do not suggest that any other standard should be applied in this case. Accordingly, my discussion, while cast in terms of the federal claims, addresses the plaintiff's state-law claims as well.

⁶ The city has withdrawn its contention, City Motion at 3, that the plaintiff's Title VII claims are untimely, Defendant City of Biddeford's Reply Memorandum ("City Reply") (Docket No. 25) at 1.

The city first asks this court to bar any claims under Title VII arising from events that occurred before June 30, 2000, or 300 days before the filing of her complaint with the Maine Human Rights Commission. *Id.* at 3-4. This is an apparent reference to the time limits established by 42 U.S.C. § 2000e-5(e)(1) for the filing of a charge with a state human rights agency. The Supreme Court has described the effect of this statutory limitation in the following terms:

First, discrete discriminatory acts are not actionable if time barred, even when they are related to acts alleged in timely filed charges. Each discrete discriminatory act starts a new clock for filing charges alleging that act. The charge, therefore, must be filed within the 180- or 300-day time period after the discrete discriminatory act occurred. The existence of past acts and the employee's prior knowledge of their occurrence, however, does not bar employees from filing charges about related discrete acts so long as the acts are independently discriminatory and charges addressing those acts are themselves timely filed. Nor does the statute bar an employee from using the prior acts as background evidence in support of a timely claim.

* * *

Hostile environment claims are different in kind from discrete acts. Their very nature involves repeated conduct. . . . The "unlawful employment practice" therefore cannot be said to occur on any particular day. It occurs over a series of days or perhaps years and, in direct contrast to discrete acts, a single act of harassment may not be actionable on its own.

* * *

In determining whether an actionable hostile work environment claim exists, we look to "all the circumstances," including "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." . . . A hostile work environment claim is comprised of a series of separate acts that collectively constitute one "unlawful employment practice." The timely filing provision only requires that a Title VII plaintiff file a charge within a certain number of days after the unlawful practice happened. It does not matter, for purposes of the statute, that some of the component acts of the hostile work environment fall outside the statutory time period. Provided that an act contributing to the claim occurs within the filing period, the entire time period of the hostile environment may be considered by a court for the purposes of determining liability.

National R.R. Passenger Corp. v. Morgan, 536 U.S. 101, ___, 122 S.Ct. 2061, 2072-74 (2002) (citations omitted). Therefore, to the extent that Count I of the amended complaint alleges the

existence of a hostile work environment,⁷ events occurring before June 30, 2000 may be considered. With respect to the claims of discrimination and retaliation in Counts I and II, for which discrete acts occurring before that date may not provide the basis for liability although they may be presented as background evidence, the city's failure to identify the specific instances or acts that form the basis of those claims which it contends are time-barred makes it impossible for the court to rule at this time on the admissibility or limited use of such evidence. *See generally Vesprini v. Shaw Contact Flooring Servs., Inc.*, 315 F.3d 37, 41 n. 4 (1st Cir. 2002); *Miller v. New Hampshire Dep't of Corrections*, 296 F.3d 18, 22 (1st Cir. 2002).

The city next contends that the plaintiff's hostile environment claims must fail because she cannot show that the alleged harassment was unwelcome or that it was based on sex. City Motion at 6.

In order to succeed on a hostile work environment claim a plaintiff must show

- (1) that she (or he) 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 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.

O'Rourke v. City of Providence, 235 F.3d 713, 728 (1st Cir. 2001); *see also Crowley v. L.L. Bean, Inc.*, 303 F.3d 387, 395 (1st Cir. 2002). Contrary to the city's argument, the fact that "most of the allegedly offensive remarks were made by a married, female dispatcher," City Motion at 6, is not determinative. The plaintiff has provided evidence that the alleged harassment was unwelcome and that it was based on sex. [Plaintiff's Statement of] Additional Facts, included in Plaintiff's Biddeford SMF ("Plaintiff's Biddeford SMF") at 15-17, ¶¶ 250-51. The fact that some of the alleged harassing

⁷ Count II of the amended complaint alleges discrimination in pay, benefits and working conditions based on gender. Amended Complaint ¶ 12. It does not allege a hostile work environment.

remarks were made by a person of the same gender does not remove them from the scope of Title VII's prohibitions. *Oncala v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75, 80 (1998). The city also characterizes the alleged harassment as "personal animosity" and "a personal feud," City Motion at 6, but that is not the only reasonable characterization of the alleged conduct and summary judgment accordingly would not be appropriate on this basis. The city also appears to argue that the plaintiff cannot establish that the conduct of which she complains created a work atmosphere that was pervasively hostile "as opposed to isolated incidents stretching over several years." *Id.* at 7. Again, such a conclusion is not compelled by the evidence in the summary judgment record and summary judgment therefore is not available on this basis.

The city next asserts that the plaintiff "merely complained to one particular co-worker" and did not place her supervisor or the chief of police on notice of her perception of a hostile work environment, thus insulating the city from this claim. *Id.* at 8-10. "Employer liability in a case involving sexual harassment by a co-worker exists when the employer knew (actual notice) or should have known (constructive notice) of the harassment and failed to take remedial action." *Breda v. Wolf Camera & Video*, 222 F.3d 886, 889 (11th Cir. 2000). The city's argument does not address the constructive notice alternative. In any event, the plaintiff has provided evidence that she reported sexual harassment and discrimination to her supervisor, Fisk. Plaintiff's Responsive Biddeford SMF ¶¶ 157-60, Affidavit of Crystal Martin (Docket No. 20) ¶¶ 22-23. The city takes nothing by this argument.

The city's next contention is that the plaintiff failed to use its established complaint procedure and accordingly may not proceed with her Title VII claims. City Motion at 9. This argument invokes the affirmative defense established by *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742 (1998), and *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998). The city's statement of material facts

establishes the existence of such a procedure and some of its relevant terms. Biddeford SMF ¶¶ 193-94. However, those paragraphs of its statement of material facts that might be construed to assert that the plaintiff did not take advantage of this procedure, *id.* ¶¶ 210-11, are disputed by the plaintiff, Plaintiff's Responsive Biddeford SMF ¶¶ 210-11.⁸ Accordingly, the affirmative defense does not provide a basis for summary judgment.

In its reply memorandum, the city contends for the first time that it is entitled to summary judgment on Counts I and II because the only tangible employment action alleged by the plaintiff is a constructive discharge, which the city contends cannot be a tangible employment action as a matter of law. City Reply Memorandum at 3. This court will not consider arguments first presented in a reply memorandum. *In re One Bancorp Sec. Litig.*, 134 F.R.D. 4, 10 n.5 (D. Me. 1991). Even if that were not the case, the city mischaracterizes the case law on which it relies. I find persuasive the reasoning of the Second Circuit in *Caridad v. Metro-North Commuter R.R.*, 191 F.3d 283 (2d Cir. 1999), the case cited by the city, to the effect that constructive discharge does not constitute a “tangible employment action,” as that term is used in *Ellerth and Faragher*, 191 F.3d at 294-95, but that only means that the city may not be held strictly liable under the circumstances of this case and may rely on its affirmative defense. It does not mean that the plaintiff's claims are barred. *Id.* at 295

Finally, the city suggests, in conclusory fashion, that the plaintiff's claims of retaliation “do not rise to the level of adverse employment action.” City Motion at 10. The plaintiff responds by citing

⁸ The city responded to these paragraphs of the plaintiff's responsive statement of material facts with a form objection which it interposed to almost every denial by the plaintiff of any paragraph of the city's statement of material facts, asserting that the denials did not properly controvert its statements because the paragraphs of the plaintiff's affidavit cited in support of the denial were not “limited to ‘one discrete fact,’” citing this court's Local Rule 56(e)(c) [sic], and because the plaintiff's affidavit testimony is “inadmissible opinion testimony.” Defendant City of Biddeford's Reply to Plaintiff's Statement of Opposing Facts, etc. (“Biddeford's Responsive SMF”) (Docket No. 26) ¶¶ 210-11. Local Rule 56 does not include the phrase “one discrete fact” and the paragraphs of the plaintiff's affidavit cited in support of her denials of these paragraphs properly address the factual assertions in the corresponding paragraphs of the city's statement of material facts. In addition, those paragraphs of the plaintiff's affidavit cannot reasonably be characterized as presenting inadmissible opinion testimony. The city's use of this blanket approach to the plaintiff's denials of portions of its statement of material facts is not helpful to the court.

paragraph 36 of her affidavit. Plaintiff's Objection to Defendant City of Biddeford's Motion for Summary Judgment ("Plaintiff's Biddeford Objection") (Docket No. 17) at 7. Unfortunately, the plaintiff has not included a citation to that paragraph of her affidavit in her statement of material facts. In the only paragraph of that document that may reasonably be said to address the plaintiff's retaliation claim, the plaintiff provides no citation to the summary judgment record. Plaintiff's Biddeford SMF ¶ 255. The city has properly objected to the paragraph on this basis. Biddeford's Responsive SMF ¶ 255. This court will not consider unsupported factual assertions submitted in opposition to a motion for summary judgment. Local Rule 56(e). Accordingly, in the absence of evidence of retaliation, the city is entitled to summary judgment on any claims of retaliation asserted in Counts I and II of the amended complaint.

2. *Counts I and II — Section 1983.* The plaintiff also asserts claims in Counts I and II of her amended complaint arising under 42 U.S.C. § 1983. Amended Complaint ¶¶ 11-12. The city contends that it may not be held vicariously liable for the alleged torts of its employees under section 1983 in this case because the plaintiff has offered no evidence of an official municipal custom or policy that caused her injury. City Motion at 11-12. The plaintiff responds that the burden of proof on these claims is the same as that on her Title VII claims because she is not raising a constitutional claim, although she does not identify the non-constitutional basis for her section 1983 claim. Plaintiff's Biddeford Objection at 8. She does not address the city's "policy or custom" argument.

Section 1983 does provide a cause of action for deprivation of rights, privileges or immunities secured by the Constitution and laws of the United States. 42 U.S.C. § 1983. However, the case law establishing the elements of a claim against a municipality under section 1983 does not differentiate between claims arising under the Constitution and those arising under other federal law.

Generally, a municipality in a section 1983 case may not be held liable for the acts of its employees on a *respondeat superior* basis. *Monell v. Department of Soc. Servs.*, 436 U.S. 658, 691 (1978). Rather, it may be held liable for such acts only to the extent that they are tantamount to a “custom” or “policy” of the municipality. *Id.* at 694. This may be proved by a showing that (i) the acts were carried out pursuant to established policy or were reflective of a governmental custom, or (ii) were taken or ratified by a final policymaker for the municipality or someone to whom final policymaking authority clearly was delegated. *City of St. Louis v. Praprotnik*, 485 U.S. 112, 121, 123, 126-27 (1988).

[I]n *Monell* and subsequent cases, we have required a plaintiff seeking to impose liability on a municipality under § 1983 to identify a municipal “policy” or “custom” that caused the plaintiff’s injury. Locating a “policy” ensures that a municipality is held liable only for those deprivations resulting from the decisions of its duly constituted legislative body or of those officials whose acts may fairly be said to be those of the municipality. Similarly, an act performed pursuant to a “custom” that has not been formally approved by an appropriate decisionmaker may fairly subject a municipality to liability on the theory that the relevant practice is so widespread as to have the force of law.

Board of the County Comm’s of Bryan County v. Brown, 520 U.S. 397, 403-04 (1997) (citations omitted). This reasoning is equally applicable to claims invoking the Constitution and those based on other federal law. *See Duvall v. County of Kitsap*, 260 F.3d 1124, 1141-42 (9th Cir. 2001) (applying *Monell* formulation to § 1983 claim brought under federal statutes).

The plaintiff has made no attempt to provide evidence of a municipal custom or policy in this case. Accordingly, the city is entitled to summary judgment on the section 1983 claims asserted in Counts I and II.

3. *Count III.* Count III of the amended complaint alleges violation of the Maine Whistleblowers’ Protection Act, 26 M.R.S.A. § 831 *et seq.* Amended Complaint ¶ 13. The city contends that the

plaintiff cannot establish the elements of this claim. City Motion at 14-16.⁹ The statute at issue provides, in relevant part:

1. Discrimination prohibited. No employer may discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because:

A. The employee, acting in good faith, or a person acting on behalf of the employee, reports orally or in writing to the employer or a public body what the employee has reasonable cause to believe is a violation of a law or rule adopted under the laws of this State, a political subdivision of this State or the United States

26 M.R.S.A. § 833(1)(A). In order to prevail on this claim, the plaintiff must show

(1) that she engaged in activity protected by the [Act], (2) that she experienced an adverse employment action, and (3) that a causal connection existed between the protected activity and the adverse employment action.

DiCentes v. Michaud, 719 A.2d 509, 514 (Me. 1998). Here, the city contends that the plaintiff did not engage in protected activity. City Motion at 15. The plaintiff offers no evidence that she herself reported a violation of any law or rule. Rather, she asserts that “when Officer Monteith wrote his complaint to numerous public bodies about Marcoux’ unlawful and official misconduct under 29-A § 2601(5) [sic], he spoke on behalf of the plaintiff in reporting what she said.” Plaintiff’s Biddeford Objection at 9.

There is no evidence in the summary judgment record that would allow a reasonable factfinder to conclude that Monteith reported a violation of this statute by Marcoux on behalf of the plaintiff. The Monteith letter itself makes no such representation, mentioning the plaintiff only on the second of its three pages: “In October, I requested a copy of that summons issued to David Welch by me . . . from . . . Crystal Martin. Crystal advised me that Capt. Marcoux had removed the summons and accompanying

⁹ The amended complaint also alleges an unspecified violation of the Maine Human Rights Act in Count III. Amended Complaint ¶ 13. However, the plaintiff does not address any such claim in her opposition to the motion for summary judgment and it accordingly must (continued on next page)

report from the department files.” Letter dated November 30, 2000 from Officer George Monteith to Bruce Benway, Biddeford City Manager (Exh. A-1 to Plaintiff’s Responsive Marcoux SMF), at [2]. The plaintiff asserts in her statement of material facts that she “consented to have George Monteith communicate on her behalf that Defendant Marcoux admitted he took back” the ticket, Plaintiff’s Biddeford SMF ¶ 254, but that paragraph is not supported by any citation to the summary judgment record. The city again has properly objected to the paragraph on this basis, Biddeford’s Responsive SMF ¶ 254, and the court will not consider it.¹⁰ Given this lack of evidence of a necessary element of the statutory claim, the city is entitled to summary judgment on Count III.

4. *Count IV.* Count IV of the amended complaint alleges violations of the state and federal statutes governing family medical leave, 26 M.R.S.A. § 843 *et seq.* and 29 U.S.C. § 2614 *et seq.* (“FMLA”). Amended Complaint ¶ 14. Specifically, the plaintiff invokes the following two sections of the federal act. Plaintiff’s Biddeford Objection at 11.

[A]ny eligible employee who takes leave under section 2612 of this title for the intended purpose of the leave shall be entitled, on return from such leave —

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

29 U.S.C. § 2614(a)(1).

(1) Exercise of rights

It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this subchapter.

(2) Discrimination

be deemed to have been waived.

¹⁰ Even if the court were to consider this factual assertion, the plaintiff fails to include in her statement of material facts any evidence that would allow a reasonable factfinder to conclude that she reasonably believed at the time the report was made, or indeed at any other time, that Marcoux had violated a state law by removing the summons from the police department’s files. That lack of evidence of a necessary element of the statutory claim also results in summary judgment for the city.

It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this subchapter.

29 U.S.C. § 2615(a). The Maine statute at issue provides:

Any employee who exercises the right to family medical leave under this subchapter, upon expiration of the leave, is entitled to be restored by the employer to the position held by the employee when the leave commenced or to a position with equivalent seniority status, employee benefits, pay and other terms and conditions of employment.

26 M.R.S.A. § 845(1). The parties agree that the legal analysis of claims made under these two statutes is the same. City Motion at 16; Plaintiff's Biddeford Objection at 11.

In order to establish a *prima facie* case for a FMLA violation, a plaintiff must show that (1) he is protected under the Act; (2) he suffered an adverse employment decision; and (3) either he was treated less favorably than an employee who had not requested FMLA leave or the adverse decision was made because of his request for leave.

Watkins v. J & S Oil Co., 164 F.3d 55, 59 (1st Cir. 1998). The city does not challenge the plaintiff's ability to establish the first element of this test, but does contend that she cannot establish either the second or the third element. City Motion at 18-19. The plaintiff responds that the terms and conditions of her employment were not the same when she returned from her family medical leave as they had been when she left and that when she reported her displeasure about this she was retaliated against in "numerous explicit ways" not otherwise described in her memorandum. Plaintiff's Biddeford Objection at 11.¹¹ As was the case with her retaliation claim under Title VII, the plaintiff provides evidence of retaliation following her complaints about possible FMLA violations only in paragraph 255 of her statement of material facts, which is unaccompanied by any citation to the

¹¹ As is her practice throughout her opposition, the plaintiff supports her argument on this point with citations to her affidavit rather than citations to her statement of material facts. Plaintiff's Biddeford Objection at 11. This form of citation is inappropriate and requires the court to review the entire statement of material facts in order to determine whether the facts on which the plaintiff relies are properly included in that document.

summary judgment record. For the reasons previously discussed, this results in summary judgment for the city on any claims of retaliation under the federal or state medical leave statutes.

The city contends that the plaintiff was restored to a substantially equivalent position when she returned to work after her medical leave. City Motion at 18-19. The plaintiff has provided some evidence of alleged diminution in her job responsibilities after her return. Plaintiff's Responsive Biddeford SMF ¶¶ 80, 112. While none of these facts addresses pay or benefits, I cannot conclude as a matter of law that they could not reasonably be interpreted to show a significant change in working conditions, including perquisites and status. 29 C.F.R. § 825.215(a). The city's discussion of the third element of the test is so cursory, City Motion at 19, that I cannot discern any proffered reason to conclude that the plaintiff cannot meet the burden of proof as to causation. Accordingly, the city is entitled to summary judgment on Count IV only to the extent that it alleges a claim for retaliation for opposition to practices made unlawful by the respective federal and state statutes.

5. *Count V.* Count V of the amended complaint alleges a state-law claim of negligent hiring and supervision of Fisk, the plaintiff's supervisor. Amended Complaint ¶ 16. The city contends that this claim is barred because it was not presented in the notice of claim served on it by the plaintiff, it has statutory immunity, and the plaintiff cannot establish the elements of the cause of action. City Motion at 20-25. The first argument is dispositive.

The plaintiff does not dispute the city's assertion that this claim is governed by the Maine Tort Claims Act, 14 M.R.S.A. § 8101 *et seq.* Plaintiff's Biddeford Objection at 12. That Act requires, in relevant part:

1. Notice requirements for filing. Within 180 days after any claim or cause of action permitted by this chapter accrues . . . a claimant or a claimant's personal representative or attorney shall file a written notice containing:

A. The name and address of the claimant, and the name and address of the claimant's attorney or other representative, if any;

B. A concise statement of the basis of the claim, including the date, time, place and circumstances of the act, omission or occurrence complained of;

C. The name and address of any governmental employee involved, if known;

D. A concise statement of the nature and extent of the injury claimed to have been suffered; and

E. A statement of the amount of monetary damages claimed.

* * *

4. Substantial notice compliance required. No claim or action shall be commenced against a governmental entity or employee . . . unless the foregoing notice provisions are substantially complied with. A claim filed under this section shall not be held invalid or insufficient by reason of an inaccuracy in stating the time, place, nature or cause of the claim, or otherwise, unless it is shown that the governmental entity was in fact prejudiced thereby.

14 M.R.S.A. § 8107(1) & (4).

The city contends that the plaintiff “has failed to allege any factual or legal reference to the claim that now appears in Count V” in the notice of claim. City Motion at 22. The plaintiff responds that the city “has shown no prejudice by plaintiff’s alleged inaccuracy” in the notice and that the city “knew or should have known that Fisk’s performance or lack thereof was at issue and therefore plaintiff has substantially complied” with the notice requirement under section 8107(4). Plaintiff’s Biddeford Objection at 12. The plaintiff’s second argument does not address the statutory test and will not be considered further here.

The notice of claim at issue, Exhibit C to the affidavit of Roger P. Beaupre, which in turn is Exhibit B to the city’s statement of material facts, mentions Fisk only in the third paragraph, which states, in its entirety: “Governmental employees responsible for the unlawful acts described herein, include but are not limited to Joanne Fisk, and Royal Marcoux.” Letter dated April 25, 2001 from Cynthia A. Dill to Bruce Benway, Exh. C to Affidavit of Roger P. Beaupre (“Beaupre Aff.”) (Exh. B to Biddeford SMF). There is no mention of a claim of negligent hiring or supervision in the letter or in the charge of discrimination filed with the Maine Human Rights Commission, Exh. B to Beaupre Aff.,

a copy of which is attached to the letter and incorporated therein by reference. Nor are there any facts alleged in those documents that could reasonably be construed to provide the basis for such a charge, the elements of which are that the employee at issue — in this case, Fisk — was incompetent and that the employer knew that fact or could by the use of reasonable diligence have discovered it. *Cote v. Jay Mfg. Co.*, 115 Me. 300, 304 (1916).

The purpose of the notice requirement is to enable the governmental entity to investigate and evaluate claims for purposes of defense or settlement. The Legislature intended thereby to allow governmental entities to avoid needless expense and litigation by providing an opportunity for amicable resolution of disputes prior to formal litigation.

Pepperman v. Barrett, 661 A.2d 1124, 1126 (Me. 1995) (citations omitted). A notice of claim that fails to include the factual basis for a claim subsequently asserted in litigation cannot fairly be said to have served this purpose; like the notice in *Pepperman*, it “fail[s] to provide the town with a sufficiently clear basis for evaluating and investigating the claims for purposes of defense or settlement.” *Id.* The city “must show prejudice only when the errors in the notice amount to mere inaccuracies.” *Id.* at 1127. The failure substantially to comply with the statute with respect to the plaintiff’s claim of negligent hiring and supervision obviates any need to show prejudice. *Id.* The city is entitled to summary judgment on Count V.

IV. Conclusion

For the foregoing reasons, I recommend (i) that Marcoux’s motion for summary judgment be **GRANTED** and (ii) that the motion of the City of Biddeford for summary judgment be **GRANTED** as to Counts I and II of the amended complaint insofar as they assert claims of retaliation or claims under 42 U.S.C. § 1983, Count III, Count IV insofar as it asserts claims of retaliation under 29 U.S.C. § 2615 or of retaliation for opposition to practices made unlawful by the federal or state statutes governing family medical leave, and Count V and otherwise **DENIED**.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum and request for oral argument before the district judge, if any is sought, within ten (10) days after being served with a copy thereof. A responsive memorandum and any request for oral argument before the district judge shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.

Dated this 1st day of April 2003.

David M. Cohen
United States Magistrate Judge

Plaintiff

CRYSTAL MARTIN

represented by **CYNTHIA A. DILL**
SIX D STREET
SOUTH PORTLAND, ME 04106
207/767-7197

V.

Defendant

**INHABITANTS OF THE CITY OF
BIDDEFORD**

represented by **HARRY B. CENTER, II**
SMITH, ELLIOTT, SMITH &
GARMEY, P.A.

199 MAIN STREET
PO BOX 1179
SACO, ME 04072
(207)282-1527

MELISSA ANN COULOMBE
BEAUCHESNE
THOMPSON & BOWIE
3 CANAL PLAZA
P.O. BOX 4630
PORTLAND, ME 04112
774-2500

MICHAEL E. SAUCIER
THOMPSON & BOWIE
3 CANAL PLAZA
P.O. BOX 4630
PORTLAND, ME 04112
774-2500