

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

BRUCE HANSON,)	
)	
PLAINTIFF)	
)	
v.)	CIVIL No. 1:13-cv-283-DBH
)	
GREENVILLE SCHOOL)	
DEPARTMENT,)	
)	
DEFENDANT)	

ORDER ON DEFENDANT’S MOTION FOR SUMMARY JUDGMENT

The defendant has moved for summary judgment. (ECF No. 32). I heard oral argument on October 2, 2014. The motion for summary judgment is **DENIED**. There are genuine issues of material fact on what motivated the school superintendent and on whether she brought about the ultimate decision by the School District that the plaintiff attacks in this lawsuit. I also find that the plaintiff’s decision to dismiss with prejudice his Maine Whistleblower’s Act claim in Count IV has not caused claim preclusion for his retaliation claims in Counts I-III based on the Americans with Disabilities Act, 42 U.S.C.A. § 12101 et seq., Rehabilitation Act, 29 U.S.C. §§ 701 et seq., and Maine Human Rights Act, 5 M.R.S. §§ 4551 et seq. As yet, there has been no final judgment in a previous action, one of the prerequisites for claim preclusion. See Hatch v. Trail King Indus., Inc., 699 F.3d 38, 45 (1st Cir. 2012) (“The three elements of claim preclusion are: (1) a final judgment on the merits in an earlier proceeding, (2) sufficient identity between the causes of action asserted in the earlier and

later suits, and (3) sufficient identity between the parties in the two actions.” (internal citations omitted); Haag v. Shulman, 683 F.3d 26, 30 (1st Cir. 2012) (“Res judicata commonly attaches if three requirements are discernibly present: (1) a final judgment on the merits in an earlier action; (2) an identity of the cause of action in both the earlier and later suits; and (3) an identity of parties or privies in the two suits.” (internal citations omitted)); Silva v. City of New Bedford, 660 F.3d 76, 78 (1st Cir. 2011) (“Federal claim preclusion law bars a plaintiff from litigating claims in a subsequent action that could have been, but were not, litigated in an earlier suit.”).

SO ORDERED.

DATED THIS 6TH DAY OF OCTOBER, 2014

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

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE (BANGOR)
CIVIL DOCKET NO. 1:13-CV-283-DBH**

Bruce Hanson,

Plaintiff

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v.

Greenville School Department,

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