

STATE OF RHODE ISLAND

WASHINGTON, SC.

SUPERIOR COURT

(FILED: July 2, 2025)

HEIDI GRANT,	:	
<i>Plaintiff,</i>	:	
	:	
v.	:	C.A. No. WC-2023-0569
	:	
M.T.M. DEVELOPMENT	:	
CORPORATION; and PAUL	:	
MIHAILIDES	:	
<i>Defendants.</i>	:	

DECISION

TAFT-CARTER, J. The matter before the Court for decision is Plaintiff, Heidi Grant’s, Motion to Defer or Deny Defendants’ (M.T.M. Development Corporation and its President, Paul Mihailides) Motion for Summary Judgment Pursuant to Rule 56(f) of the Superior Court Rules of Civil Procedure. (Pl.’s Mot. to Defer or Deny Defs.’ Mot. Summ. J. (Pl.’s Mot.) 1.) Defendants filed an objection to the motion and the Court heard arguments on June 16, 2025. (Defs.’ Obj. to Pl.’s Mot. to Defer or Deny Defs.’ Mot. Summ. J. (Defs.’ Obj.) 1.) Jurisdiction is pursuant to Rule 56(f) of the Superior Court Rules of Civil Procedure.

I

Facts and Travel

This case concerns Plaintiff’s claims against her former employer M.T.M. Development Corporation (MTM) and its President, Paul Mihailides, (Mr. Mihailides) (collectively, Defendants), for sex discrimination and retaliation in violation of the Rhode Island Civil Rights Act of 1990, G.L. 1956 § 42-112-1, and the Rhode Island Whistleblower’s Protection Act, G.L. 1956 chapter 50 of title 28. (Verified Compl.)

The factual allegations, as pled in Plaintiff’s Verified Complaint, are as follows: Plaintiff began working for MTM and Mr. Mihailides as a construction coordinator in late September/early October 2021. Verified Compl. ¶ 10. Shortly after beginning work, another MTM employee, Andrew Semple, began making romantic and sexual advances toward her. *Id.* ¶ 12. Plaintiff felt uncomfortable with Semple’s advances and casually brought up the developing situation to her supervisor, Nikki Mihailides (Ms. Mihailides).¹ *Id.* ¶ 27. However, Ms. Mihailides seemed “delighted” to hear that Semple was pursuing Plaintiff; and this reaction caused Plaintiff to believe that her employer approved of, or condoned, Semple’s behavior. *Id.* ¶¶ 30-32.

Plaintiff felt “powerless to rebuff Semple’s advances due to her employer’s indifference and inaction” and “reluctantly agreed to go out to dinner with Semple.” *Id.* ¶ 36. Plaintiff then began a sexual relationship with Semple. *Id.* ¶ 38.

According to Plaintiff, approximately one month into her work at MTM, Mr. Mihailides learned about her relationship with Semple and confronted Semple about it. *Id.* ¶¶ 45, 47. Mr. Mihailides was concerned that the relationship could lead to a sexual harassment lawsuit and told Semple that he should fire him for that reason. *Id.* ¶¶ 47, 48. However, Mr. Mihailides did not fire or discipline Semple. *Id.* ¶ 60. Instead, Ms. Mihailides called Plaintiff into her office and terminated her employment. *Id.* ¶ 51.

On November 18, 2023, Plaintiff filed the present Verified Complaint against MTM and Mr. Mihailides. (Verified Compl.) Before filing an Answer to the Verified Complaint, counsel for Defendants demanded that Plaintiff’s counsel either withdraw the Verified Complaint or be forced to respond to a Motion for Sanctions pursuant to Rule 11 of the Superior Court Rules of

¹ Ms. Mihailides is Paul Mihailides’ daughter. Verified Compl. ¶ 16 n.1.

Civil Procedure. (Pl.’s Mem. of Law in Obj. to Defs.’ Mot. for Sanctions Pursuant to Rule 11, Ex. E, at 5.) In response, Plaintiff’s counsel reasserted the veracity of the statements contained in the Verified Complaint and refused to withdraw it. (Pl.’s Mem. of Law in Obj. to Defs.’ Mot. for Sanctions Pursuant to Rule 11, Ex. H, at 1, 2.)

On December 11, 2023, Defendants answered the Verified Complaint, denied all claims against them, and propounded the following affirmative defenses: that Plaintiff’s Complaint fails to state a claim upon which relief may be granted, estoppel, laches, that Plaintiff’s remedies at law are barred by the Rhode Island Workers’ Compensation Act, that the Complaint fails to state a claim for punitive damages, and that an award of punitive damages would violate the Due Process clause of the United States Constitution and Rhode Island Constitution. (Answer to Verified Compl. 8-9.)

Thereafter, on January 8, 2024, Defendants filed the aforementioned Rule 11 Motion for Sanctions, arguing that Plaintiff was lawfully terminated for being “written-up” five times during her brief employment. (Defs.’ Mem. of Law in Supp. of Mot. for Sanctions Pursuant to Rule 11 1.) Plaintiff objected to the motion, arguing that Defendants’ proffered explanation for her termination does not foreclose the possibility that the write-ups were fraudulent, that they were issued for pretextual reasons, or that they were not the true reason for her termination. (Pl.’s Mem. of Law in Obj. to Defs.’ Mot. for Sanctions Pursuant to Rule 11 8.) The Court denied the motion for sanctions without prejudice. *See* Docket, May 23, 2024.

Discovery commenced while the Rule 11 motion was pending and has been ongoing ever since. In accordance with the ongoing discovery, this Court heard and granted three of Plaintiff’s discovery motions on February 17, 2025—namely, Plaintiff’s Motion to Compel More

Responsive Answers, Motion to Compel Responses to Interrogatories, and Motion to Compel Responses to Document Requests. (Order, Mot. to Compel Disc., Feb. 28, 2025.)

On May 30, 2025, Defendants moved for Summary Judgment on all counts pled in Plaintiff's Verified Complaint. (Defs.' Mot. Summ. J. 1.) As a basis for the motion, Defendants argue that "[n]o reasonable juror could conclude, based on [the] undisputed evidence, that Mr. Semple's conduct was anything but welcome," that "Plaintiff has failed to present any admissible evidence suggesting that [MTM's] stated reasons [for termination] were pretextual," and that Plaintiff's whistleblower claim "fails as a matter of law, as the undisputed evidence shows she did not engage in protected conduct." *Id.* 4. Presently, the Court is scheduled to hear Defendants' Motion for Summary Judgment on August 18, 2025.

In response, Plaintiff filed a Motion to Defer or Deny Defendant's Motion for Summary Judgment pursuant to Rule 56(f) of the Superior Court Rules of Civil Procedure. Plaintiff argues that additional discovery remains outstanding. (Pl.'s Mot. 1.) Specifically, Plaintiff seeks additional time to collect signature exemplars from Mr. Santomaro—the supervisor alleged to have authored several of Plaintiff's write-ups—and to conduct a handwriting analysis to determine if Mr. Santomaro validly signed the write-ups in Plaintiff's file. *Id.* 4. In addition, Plaintiff has retained an IT expert to investigate the forensic data and to determine when the write-ups were digitally created and modified; and also seeks to conduct additional fact discovery relevant to her claim of pretext and workplace bias. *Id.* 7-11.

Defendants object to Plaintiff's motion, arguing that the discovery that Plaintiff seeks to conduct is neither relevant nor dispositive on the motion for summary judgment. (Defs.' Obj. 1.) In the alternative, Defendants ask that Plaintiff be ordered to provide monetary security should the Court permit further discovery. *Id.*

II

Standard of Review

“[A] trial justice’s decision to grant a continuance pursuant to Rule 56(f) is discretionary.” *Chevy Chase, F.S.B. v. Faria*, 733 A.2d 725, 727 (R.I. 1999) (mem.) (citing *Greenwald v. Selya & Iannuccillo, Inc.*, 491 A.2d 988, 989 (R.I. 1985)).

III

Analysis

Rule 56(f) of the Superior Court Rules of Civil Procedure states:

“Should it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party’s opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.”
Super. R. Civ. P. 56(f).

Thus, if Plaintiff demonstrates, by affidavit, that additional discovery is required to present facts essential to her opposition to Defendants’ Motion for Summary Judgment, then this Court may continue the hearing on Plaintiff’s motion to permit additional discovery.

Rule 56(f) addresses “the problem facing a party opposing summary judgment who, for good reason, cannot present affidavits setting forth facts justifying opposition to the motion.” Kent, *Rhode Island Civil and Appellate Procedure with Commentaries* § 56:6 (2025). Courts should liberally apply this rule, so as to give “the party opposing the motion full opportunity to show any genuine issue which may exist, even where the party could have made that showing at the time the motion came on for hearing.” *Mill Factors Corp. v. L.S. Building Supplies, Inc.*, 103 R.I. 675, 678, 240 A.2d 720, 722 (1968).

When a party fails to support a Rule 56(f) motion with accompanying affidavits substantiating the need for additional discovery, the trial court may properly deny the motion for a continuance. *See, e.g., Berard v. HCP, Inc.*, 64 A.3d 1215, 1220 (R.I. 2013) (motion denied due to the plaintiff's failure to file supporting affidavits); *Costantino v. Ford Motor Company*, 178 A.3d 310, 312 n.2 (R.I. 2018) (motion denied due to the plaintiff's failure to submit affidavit explaining why a continuance was needed); *Holley v. Argonaut Holdings, Inc.*, 968 A.2d 271, 276 (R.I. 2009) (motion denied based on failure to file supporting affidavits and the fact that case had been ongoing for two and a half years); *but see Meeks v. Stop & Shop Supermarket Co., LLC*, 289 A.3d 1179, 1185 (R.I. 2023) (where the court granted the plaintiff's 56(f) motion and ordered a six week continuance even though the plaintiff failed to present the appropriate affidavits, failed to serve on the defendant any requests for the production of documents, and did not file the 56(f) motion until one week before the scheduled summary judgment hearing).

Here, Plaintiff filed her Rule 56(f) motion on June 6, 2025—promptly after Defendants filed their Motion for Summary Judgment and well in advance of the August 18, 2025 hearing date. (Pl.'s Mot. 1.) In addition, Plaintiff's attorney submitted to the court a sworn declaration explaining Plaintiff's stated reasons for requiring additional discovery to respond to Defendant's motion and outlining the steps that Plaintiff has already taken to conduct discovery in an expeditious and timely manner. *See* Decl. of Attorney Mark P. Gagliardi. Furthermore, Plaintiff filed an independent Objection to Defendants' Motion for Summary Judgment. (Pl.'s Obj. to Defs.' Mot. Summ. J.)

Defendants argue that “both a claim of discrimination based on a hostile work environment and a claim of discrimination based on *quid pro quo* sexual harassment require proof that the harassment was unwelcomed[,]” and “[n]one of the discovery Plaintiff seeks to

conduct bears on whether the consensual relationship between Plaintiff and [Semple] was unwelcome.” (Defs.’ Obj. 15-16.) However, Plaintiff’s Verified Complaint clearly identifies specific instances of conduct—undertaken by Semple—that she alleges were “unwelcome.” *See, e.g.,* Verified Compl. ¶¶ 12-14. The fact that Plaintiff later began a consensual sexual relationship with Semple is not dispositive on whether Semple’s advances toward her in the workplace were unwelcome² and should not foreclose her ability to conduct discovery related to other elements of her claims.

The Court is satisfied that Plaintiff has been reasonably diligent in her efforts to conduct discovery, as evidenced by the declarations of Attorney Gagliardi, and has presented a reasonable basis for the proposed continuance so that she may conduct additional discovery on the essential issue of pretext. In addition, the Court is satisfied that Defendants will not be prejudiced by continuing the hearing on their motion for summary judgment from August 18, 2025 to January 15, 2026.³

Finally, Defendants request that Plaintiff be ordered to deposit “an amount sufficient to cover the attorneys’ fees and expenses Defendants will incur in further responding to discovery.” (Defs.’ Obj. 34.) Defendants request that the Court make such an order pursuant to its equitable authority to “make such other order as is just” under Rule 56(f) of the Superior Court Rules of Civil Procedure. *Id.* However, Defendants fail to cite any authority in support of this proposition. Therefore, Defendants’ request that Plaintiff be required to deposit funds in the Court registry in

² Indeed, in a landmark case considering the substantially similar federal sex discrimination protection statute, Title VII, the United States Supreme Court explained that “the fact that sex-related conduct was ‘voluntary,’ in the sense that the complainant was not forced to participate against her will, is not a defense to a sexual harassment suit brought under Title VII. The gravamen of any sexual harassment claim is that the alleged sexual advances were ‘unwelcome.’” *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57, 68 (1986).

³ Defendants filed a lengthy objection to Plaintiff’s Rule 56(f) motion but did not explain how a continuance would cause prejudice to their case.

an amount sufficient to cover costs incurred by Defendants in responding to additional discovery is denied.

IV

Conclusion

Plaintiff's Motion to Defer or Deny Defendants' Motion for Summary Judgment is granted. The Court will conduct a hearing on Defendants' Motion for Summary Judgment on January 15, 2026. Counsel shall submit the appropriate order for entry.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: **Heidi Grant v. M.T.M. Development Corporation and Paul Mihailides**

CASE NO: **WC-2023-0569**

COURT: **Washington County Superior Court**

DATE DECISION FILED: **July 2, 2025**

JUSTICE/MAGISTRATE: **Taft-Carter, J.**

ATTORNEYS:

For Plaintiff: **Mark P. Gagliardi, Esq.**

For Defendant: **Nicole J. Benjamin, Esq.
Marc Desisto, Esq.
John A. Tarantino, Esq.**