

September 30, 2010

Drap v. Masonicare at Newtown, Inc., et al.,
Case No. 3:10-CV-104(RNC)

Re: Motion to Dismiss (Doc. 12) and Motion to Dismiss (Doc. 30):

Denied. Defendant Curtis has filed a motion to dismiss the original complaint (doc. 12), which is hereby denied as moot, and a motion to dismiss count 5 of the amended complaint (doc. 30), which is hereby denied on the merits for substantially the reasons stated in the plaintiff's memorandum in opposition. Count 5 alleges a claim for intentional infliction of emotional distress under state law. To state such a claim, a plaintiff must allege: (1) that the defendant intended to inflict emotional distress or should have known such distress was likely, (2) that the defendant's conduct was extreme and outrageous, (3) that the conduct caused the distress, and (4) that the distress was severe. See Appleton v. Bd. of Educ., 254 Conn. 205, 210 (2000). The amended complaint alleges that defendant Curtis harassed the plaintiff on a daily basis and even struck her. These allegations, which must be accepted as true for purposes of the motion to dismiss, are sufficient to withstand the motion. The fact that the parties were co-workers does not prevent the defendant's conduct from being outrageous. So ordered.

/s/ Robert N. Chatigny
Robert N. Chatigny, U.S.D.J.