IN THE COURT OF APPEALS OF IOWA

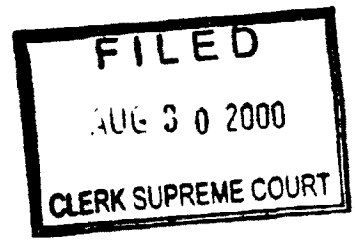
No. 0-023 / 99-283
Filed August 30, 2000

KELLY CUNNINGHAM AYERS,
Plaintiff-Appellee,

vs.

FOOD & DRINK, INC.,
Defendant,
and

JAMES P. LYNCH, JR.,
Defendant-Appellant.



Appeal from the Iowa District Court for Polk County, Gary G. Kimes, Judge.

James Lynch appeals the district court's judgment in favor of Kelly Cunningham Ayers in her suit involving sexual harassment and battery claims. **AFFIRMED IN PART; REVERSED IN PART.**

Jerrold Wanek and David A. Morse of Garten & Wanek, Des Moines, for appellant.

Roxanne Barton Conlin of Roxanne Conlin & Associates, P.C., Des Moines, for appellee.

Heard by Mahan, P.J., and Zimmer and Vaitheswaran, JJ.

ZIMMER, J.

James Lynch appeals the district court's judgment in favor of Kelly Cunningham Ayers in her suit involving sexual harassment and battery claims. We affirm in part and reverse in part.

The trial court found the following facts. Ayers' claims arose out of incidents occurring during her employment with defendant Food & Drink, Inc. ("Food & Drink"). Food & Drink is a corporation operating several restaurants in the Des Moines area. Defendant James P. Lynch was the president, CEO and principal shareholder of the corporation. In November 1993, Ayers began her employment with Food & Drink as a food server at Jimmy's American Café. She later became a shift manager at the Eighth Street Seafood Bar and Grill ("Eighth Street"), another Food & Drink holding.

In May of 1995, Ayers informed Lynch she was pregnant. Lynch stated that had she not become pregnant, he would have given her a higher management position. After her pregnancy had advanced, Lynch commented at a staff meeting that Ayers' "boobs" were getting "huge." Events culminated on October 13, 1995, at Eighth Street. At the time, Ayers was seven months pregnant. Lynch began rubbing her abdomen but in doing so, bumped her breasts accidentally. However, he left his hand on Ayers' breasts and again remarked about their increasing size. Other employees witnessed the behavior and informed Corey Becker, Eighth Street's general manager. Becker told Ayers to return to work. Later that same day, Lynch trapped Ayers near the service area, physically restrained her and rubbed his groin against her while asking if she was going to name her baby "Little Jimmy." He also encouraged a friend of his to touch Ayers' stomach. Ayers

complained again to Becker and attempted to call Jeff Drake, Food & Drink's chief operating officer. She eventually reached Terry Craig, the employee relations manager, at home.. He declined to come to the restaurant that night but stated he would look into the matter.

Lynch appeared at Eighth Street on the night of October 17, 1995, while Ayers was working. She chose to hide in the women's restroom to avoid him. She believed he had come there to confront her, but her own testimony indicated he never spoke to her that night. Ayers did not return to work on October 18. On October 19, 1995, Ayers submitted her resignation, claiming constructive discharge based on a sexually hostile working environment and the retaliation she suffered on October 17 as a result of complaining about Lynch.

These incidents were simply the tip of the iceberg. The trial court found other female employees had complained about Lynch. Other women who worked at Jimmy's testified Lynch made inappropriate sexual comments to them and they reported the comments to management. Management was present during at least some of these incidents with Ayers and others. For a period of years, Lynch had commented on women employees' legs and the size of their breasts. He told some of them he would like to see them in a swimsuit or have an affair with them. He would corner them up against the bar or a wall and lean in close to talk in their face, sometimes also kissing their hands or telling them how beautiful they looked. Other times he would pull female employees to him tightly, bring his face close to theirs and tell them how beautiful they were or kiss them. Ayers and others testified that these incidents occurred regularly. After complaints to managers, the women were told to ignore Lynch or stay away from him. Lynch denied most of the incidents or

characterized them as innocent touching. The record revealed he was intoxicated during many of the incidents at the restaurants.

Ayers filed suit against Food & Drink and Lynch, alleging various state and federal claims. The four claims against Lynch were sexual harassment (hostile work environment) in violation of Iowa Code Chapter 216, the Iowa Civil Rights Act ("ICRA"); constructive discharge in violation of ICRA; 'retaliation' for complaining about sexual harassment in violation of ICRA; and common law battery (based on the October 13, 1995 touching). Similar claims were asserted against Food & Drink, but also included a sex discrimination claim under "Title VII," 42 U.S.C. § 2000e, *et seq.* The federal Title VII claim against Food & Drink and the common law battery claim against Lynch were tried to a jury in October of 1998.

The jury returned a verdict for Ayers under Title VII, awarding $30,770 in back pay, $25,164 in front pay and $200,000 in punitive damages. This portion of the judgment was entered only against Food & Drink. The punitive damages were later reduced to $50,000 by the district court. The jury also found for Ayers on the battery claim. It awarded $15,000 for the battery along with $30,770 in back pay against Lynch. On the punitive damage claim, Ayers was awarded $45,000 against Food & Drink for Lynch's battery. The ICRA claims were tried to the court. It awarded the same back pay and front pay amounts as the jury had on the Title VII claims but against both Lynch and the corporation. The trial court also awarded Ayers court costs of $14,317.62 and attorney fees of $325,279.

Lynch appeals but Food & Drink does not. Lynch primarily contends the district court erred in granting judgment against him on the ICRA claims. He disputes the sufficiency of the evidence to support the trial court's conclusions on

several issues: hostile work environment, constructive discharge, retaliation, Ayers' exhaustion of remedies under Food & Drink's harassment policy, and damages. He also claims a supervisor cannot be held individually liable under ICRA. Lynch's second main contention is that the trial court erred in denying his motions for directed verdict and new trial on the battery claim. Finally, Lynch argues he did not receive a fair trial. This contention is based on the admission of: (1) an excluded witness's statement that Lynch had rubbed Ayers' "crotch"; and (2) evidence of Lynch's heavy drinking habits that, he contends, was irrelevant and prejudicial.

I. ICRA Claims--Sufficiency of the Evidence. Ayers' ICRA claims were tried to the court. Consequently, our review is for correction of errors at law. *See, e.g., Lynch v. City of Des Moines*, 454 N.W.2d 827, 829 (Iowa 1990) (citation omitted). We are bound by the district court's findings of fact if they are supported by substantial evidence. *Id.* Evidence is substantial when a reasonable mind would accept it as adequate to reach the same findings. *Wright v. Waterloo Water Works*, 493 N.W.2d 889, 893 (Iowa App. 1992) (citation omitted). In our review, we need only consider evidence favorable to the judgment, whether or not it was contradicted. *Id.* (citation omitted).

A. Hostile Work Environment. Lynch contends the district court erred in concluding a hostile work environment existed at Ayers' place of employment. He claims the evidence demonstrated Ayers welcomed his conduct both by her participation in horseplay and her failure to report the incidents to the appropriate people.

Maintenance of a sexually hostile work environment is a form of illegal sex discrimination under Iowa Code section 216.6 (1997). *See Lynch*, 454 N.W.2d at

833 (interpreting Iowa Code section 601A.6(1)(a), the former version of section 216.6). To establish a hostile work environment claim, a plaintiff must show:

> (1) the plaintiff belongs to a protected class;
> (2) the plaintiff was subject to unwelcome sexual harassment;
> (3) the harassment was based upon sex;
> (4) the harassment affected a term, condition or privilege of employment, and;
> (5) the employer knew or should have known of the harassment and failed to take prompt and appropriate remedial action.

Id. (citations omitted). In *Lynch,* the defendant city argued a female police officer had not been subject to unwelcome sexual harassment from fellow officers because she herself had engaged in banter and used crass language. The Iowa Supreme Court found that although the plaintiff's conduct was relevant, the record showed she repeatedly indicated to the fellow officers and her superiors that the behavior was offensive. *Id.* at 834. The court found substantial evidence the conduct was unwelcome. *Id.*

We find substantial evidence of the unwelcome nature of Lynch's conduct and of the fact the employer knew or should have known of his harassment. Despite Lynch's contentions to the contrary, the record clearly demonstrates his sexually offensive behavior pervaded the atmosphere at the restaurants. Women were either the subject of his boorish attentions or were required to frequently observe such acts and dread their turn. The staff often commiserated about Lynch and complained to supervisors. Supervisors were themselves sometimes witness to such incidents. Ayers was visibly upset by the incidents of October 13 and 17 and witnesses too were shocked. It would be incredible to say that Lynch's conduct was welcomed by Ayers or others.

Lynch points out Ayers herself was a 'touchy-feely' person and co-workers at the restaurant sometimes gave each other hugs or pats on the back. However, the record indicates these touches were unaccompanied by comments about breast size and affairs or by hip grinding. Lynch's touches went beyond friendly and his behavior was only exacerbated by his frequent intoxication. Suggesting his conduct was not sexual stretches credulity. There was a clear pattern of offensive conversation and behavior, not merely a few incidents, as Lynch would lead us to believe. *See Bales v. Wal-Mart Stores, Inc.*, 143 F.3d 1103, 1109 (8th Cir. 1998). The cumulative effect of such conduct creates a sexually hostile work environment. *Id.* We find substantial evidence of a hostile working environment.

B. Constructive Discharge. Lynch argues Ayers failed to prove a constructive discharge claim because she quit so soon and failed to complain to the corporation's counsel, attorney Gerald Grask, prior to claiming constructive discharge. To establish a claim for constructive discharge, a plaintiff must show the employer "'deliberately create[d] intolerable working conditions with the intention of forcing the [plaintiff] to quit.'" *Coffman v. Tracker Marine, L.P.*, 141 F.3d 1241, 1247 (8th Cir. 1998) (citations omitted). The intent requirement is satisfied by demonstrating the plaintiff's quitting was a reasonably foreseeable consequence of the employer's discriminatory actions. *Id.* (citations omitted). The plaintiff must establish that "a reasonable person in her situation would find the working conditions intolerable." *Id.* (citation omitted).

Again, we find substantial evidence supports the district court's conclusion Ayers was constructively discharged. We have recited evidence of the atmosphere created for women by Lynch. It is reasonably foreseeable Ayers would quit after the

October 13 incidents—the last, and perhaps most outrageous, straws in a long line of incidents. On the 13th, Ayers had asked the supervisors to whom she complained to keep Lynch away from her. However, he showed up for several hours where she was working on October 17. After the supervisors' prior inability to contain Lynch, it was reasonable for Ayers to believe Lynch's conduct would continue unchecked. No reasonable person would endure these circumstances.

Lynch correctly points out an employee claiming constructive discharge has an obligation to give the employer a chance to address a problem before quitting. *See Coffman,* 141 F.3d at 1247. We find Food & Drink had a reasonable opportunity over several years to do something about Lynch. The fact that Ayers failed to contact corporate counsel Grask carries little weight in these circumstances. This was a small, closely-held corporation with Lynch as the primary shareholder at all relevant time periods. Lynch hired Grask to be his and the corporation's counsel. As the trial court pointed out, Grask's ethical obligations were to protect the company's interests. Furthermore, during testimony, Grask characterized some of Lynch's behavior, including kissing the ankles of female employees, as 'playful.' Grask also testified that in other cases, complaints had always come to him through supervisors, not directly from employees. The employee handbook directs the employee to report discrimination complaints to the "supervisor or any manager with whom you feel comfortable"; Grask was listed as an alternative. We find Ayers used the appropriate channels and any direct complaint to Grask would have been of little value. We affirm the finding of constructive discharge.

C. Retaliation. The Iowa Civil Rights Act also makes it illegal "to discriminate or retaliate against another person in any of the rights protected against discrimination . . . because such person has lawfully opposed any practice forbidden under this chapter, ..." Iowa Code § 216.11(2). A prima facie case of retaliation consists of the following elements: (1) the plaintiff was engaged in statutorily protected activity, (2) she suffered adverse employment action, and (3) a causal connection existed between the first two factors. *City of Hampton v. Iowa Civil Rights Com'n,* 554 N.W.2d 532, 535 (Iowa 1996) (citation omitted). The causation standard has been characterized as a high one: the causal connection must be a 'significant factor' motivating the adverse employment decision. *Id.* (citation omitted). Lynch argues his appearance during Ayers' shift on October 17 was not adverse *employment* action and was not intended to be retaliatory.

We agree. Even if we were to assume Lynch's appearance constituted an *employment* action (which we do not), we do not find substantial evidence to support a finding this act was connected to Ayers' complaints. Ayers had complained of Lynch's conduct before, but had not suffered the 'stalking' she claims occurred on October 17. Even reading the record in the light most favorable to the trial court's verdict, we find no evidence of retaliation or retaliatory intent.

Even the trial court was hard pressed to support its own conclusion. Although the district court characterized Lynch's appearance as 'stalking,' our reading of the testimony and Ayers' own description of events reveals nothing more than the fact Lynch appeared and Ayers chose to hide out from him. He never spoke to her, did not follow her around and interfere with the performance of her duties, and did not send her home or reduce her hours. Previous cases have found

substantial evidence of retaliation where a supervisor threatened to sue the employee because of statements made in her civil rights complaint, gave her the silent treatment, refused to tell her information needed to do her job, and reduced her to part-time "because of the civil rights mess." *See City of Hampton*, 554 N.W.2d at 536. We do not find similar evidence here and, therefore, dismiss this portion of Ayers' claim. Ayers' failure to prove retaliatory intent does not affect her right to recover the full amount of damages under her ICRA claims of constructive discharge and hostile work environment.

D. Exhaustion of Remedies under Employer's Harassment Policy. We have already found Ayers pursued the proper complaint channels. We find this argument meritless.

E. Damages. Lynch contends the awards for back pay and front pay are unsupported by the record. A successful plaintiff under ICRA may be awarded "actual damages, court costs and reasonable attorney fees." *See* Iowa Code § 216.15(8)(a)(8). Actual damages may include lost wages and benefits, also referred to as 'backpay.' *Landals v. George A. Rolfes Co.*, 454 N.W.2d 891, 895 (Iowa 1990). The trier of fact determines the amount of damage attributable to a defendant's conduct. *Lynch*, 454 N.W.2d at 836. We review for an abuse of discretion. *Id.* We will not interfere with a damage award unless it appears flagrantly excessive or lacks evidentiary support. *Id.* (citation omitted).

1. Back Pay. An employee who has been discriminated against is entitled to be reinstated to the position previously held and given back pay. *Paxton v. Union Nat'l Bank*, 688 F.2d 552, 574 (8th Cir. 1982). The back pay award should be determined by measuring the difference between actual earnings for the relevant

time period and those which would have been earned absent the unlawful discrimination. *Id.* The latter calculation would include back pay from the date of discharge to the present and any increases that would have been received within that period. *Id.*

We find the pay award justified by the record. The back pay award was $30,770. Ayers was earning approximately $24,000 annual salary when she was constructively discharged. In February of 1996, she was hired at Norwest Mortgage at an annual salary of $16,000. On March 1, 1998, Ayers received a raise in salary to $24,400 per year. Ayers spent nearly two and one-half years earning $8,000 less as a result of her constructive discharge, a deficit of approximately $20,000. In March of 1998, she did begin receiving $400 more a year than she had earned at Food & Drink, but that does not account for over two years of inflation, increased costs of living, and loss of benefits. The trial court's award is well within an acceptable range, taking account of all these factors.

Furthermore, Lynch fails to point out how the calculation was incorrect. He merely claims Ayers had periods of unavailability for work, such as maternity leave, and the value of fringe benefits are not recoverable. He does not state what these periods or benefits amounted to. Lynch does nothing more than make assertions that the damage award was too high. He did not make a rule 179(b) motion and, on appeal, does not tell us how the back pay award should be reduced. *Id.* (stating burden shifts to employer to prove what should be deducted from back pay award once gross amount determined). We affirm this part of the damage award.

2. Front Pay. Front pay may be awarded in lieu of, but not in addition to, reinstatement. *Rasmussen v. Quaker Chemical Corp.*, 993 F.Supp. 677, 683

(N.D.Iowa 1998). The calculation of front pay is necessarily uncertain and is a matter within the sound discretion of the trial court. *Id.* at 684. Front pay is not so much a monetary award for the salary that the employee would have received but for the discrimination, but rather the monetary equivalent of reinstatement, to be given in situations where reinstatement is impracticable or impossible. *Kramer v. Logan County School District No. R-1*, 157 F.3d 620, 626 (8th Cir. 1998). Since reinstatement was clearly impracticable, an equitable award of front pay by the district court was justified.

The trial court awarded Ayers $419.40 per month for five years, totaling $25,164. This represents the difference in pay, bonuses, and benefits between her position with Norwest at the time of trial and her position had she stayed with Food & Drink. The district court employed payroll documentation in the record to arrive at this figure. Lynch has not pointed to proof the front pay award was inappropriate. We affirm.

3. Attorney Fees. The trial court granted Ayers' application for attorney fees in an order entered following trial. Lynch contends the award of attorney fees should be set aside because the court failed to hold an evidentiary hearing on the fee issue and did not make sufficiently detailed findings. We conclude Lynch waived any further hearing on the attorney fee issue.

The court addressed the attorney fee issue on the date scheduled for hearing on all post-trial motions. Following an informal discussion with counsel in chambers, the court formally ruled on all pending post-trial motions on the record. The record shows the trial court carefully examined the documents and affidavits

that accompanied the attorney fee application. The trial court described the documents as "thorough" and the time records as "meticulous."

Lynch made the following oral objection to the attorney fee application:

> . . . The defendants object to the attorney fee application in its entirety submitted by Ms. Conlin, and for those portions which reflect time spent on preparation of legal documents and attendance at hearings where the defendants were successful in striking certain matters and resisting certain motions during the pendency of this case. That's all I have.

The defendants did not request an evidentiary hearing or an opportunity to present additional contradictory evidence on the issue of attorney fees. Later that same day, the trial court entered a written order granting Ayers' attorney fee application. The court's order included the following findings:

> 1. The hourly rates and the number of hours expended by Plaintiff's counsel on this matter were reasonable and necessary and within the community standards. This was a complicated and difficult matter with many issues disputed, including many issues of discovery.
> 2. The extensive submission of Plaintiff's counsel fully supports the application for fees and costs. The time records submitted by Plaintiff's counsel are meticulous and complete and sufficient in detail to permit the court to determine with a high degree of certainty that the hours claimed were actually and reasonably expended.
> 3. The costs are also reasonable and necessary and fully supported by counsel's application.

We deem Lynch's objection insufficient to require the district court to hold an additional hearing or make more detailed findings on this issue. We affirm the attorney fee award.

F. Lynch's Individual Liability under ICRA. Lynch contends the district court erred in applying the law when it concluded he could be held individually liable under ICRA. Lynch's argument is obviated by the Iowa Supreme Court's holding in

Vivian v. Madison, 601 N.W.2d 872 (Iowa 1999) (holding supervisory employees subject to individual liability for unfair employment practices under ICRA).

II. Battery. The jury returned a verdict adverse to Lynch on Ayers' battery claim and awarded damages for the offensive touching, back pay and punitive damages. Lynch contends the district court erred by denying his motions for directed verdict and new trial on this claim. He claims he did not have the requisite intent to cause a harmful or offensive contact when he touched Ayers' breast while rubbing her stomach. He also maintains Ayers neither claimed nor demonstrated physical or mental damage from the October 13th incidents.

The trial court has broad discretion in ruling on motions for new trial. *Lara v. Thomas*, 512 N.W.2d 777, 781 (Iowa 1994). Consequently, we will reverse only upon a finding of an abuse of that discretion. *Millis v. Hute*, 587 N.W.2d 625, 629 (Iowa App. 1998). When reviewing the denial of a motion for directed verdict or judgment notwithstanding the verdict, we view the evidence in the light most favorable to the nonmoving party. *Molo Oil Co. v. River City Ford Truck Sales, Inc.*, 578 N.W.2d 222, 224 (Iowa 1998). We ask whether there was sufficient evidence to justify submitting the question to a jury. *Id.* (citation omitted).

A. Intent. Lynch contends there was no evidence he intended to cause a harmful or offensive contact with Ayers when he rubbed her stomach on October 13, 1995. He bases this contention on Ayers' testimony that she did not think Lynch intended to touch her breasts when he initially began rubbing her stomach. Lynch fails to mention that Ayers also testified that after Lynch accidentally touched her breasts, he left his hands on her breasts and made a remark about their size. This evidence suffices to demonstrate an intent to cause offensive bodily contact. We

find sufficient evidence of intent to submit that question to the jury and no abuse of discretion in the trial court's refusal to grant a new trial on the battery claim.

B. Damages. The jury awarded Ayers $15,000 in damages and $30,770 in back pay on her battery claim. Punitive damages of $45,000 were also assessed against Food & Drink only. Food & Drink does not appeal that portion of the judgment. Lynch appeals the other parts of the award. He maintains Ayers suffered no damages as a consequence of any battery which occurred on October 13.

Ayers does not contend she suffered physical injury or loss of mental function as a result of the battery. However, the lack of such injuries does not preclude her recovery of damages. A showing of actual damages is not an element of battery. *See* 6 Am.Jur.2d *Assault and Battery* § 144; *see also* Restatement (Second) of Torts § 907, cmt. b (noting damages may be awarded for a trespass to the person, such as a nonharmful battery). As we have noted, substantial evidence supports the jury's conclusion that Lynch intentionally touched Ayers in a manner that resulted in insulting and offensive bodily contact. The record reveals his actions were extremely offensive and upsetting to Ayers. We conclude the trial court was correct in denying Lynch's motions for directed verdict and new trial on the jury's $15,000 award on the battery claim. We affirm that portion of the award.

However, we conclude the back pay element of the battery damage award should be set aside. Recovery for impaired earning capacity presumes the existence of a physical or mental injury received in the battery which somehow diminishes a plaintiff's ability to work. Therefore, an impaired earning capacity claim can only be proved through the existence of physical or mental injury. Because

Ayers makes no claim for such injuries, we conclude she cannot recover for loss of income or earning capacity based on the battery. Accordingly, the jury's award of back pay based on Ayers' battery claim is set aside.[1]

III. Evidentiary Issues. Lynch argues he did not receive a fair trial. This contention is based on the admission of: (1) an excluded witness's statement that Lynch had rubbed Ayers' "crotch"; and (2) evidence of Lynch's heavy drinking habits that, he contends, was irrelevant and prejudicial. We review the admission of evidence under an abuse of discretion standard. *Lovick v. Wil-Rich,* 588 N.W.2d 688, 692 (Iowa 1999).

A. Admission of Excluded Statement. A videotaped deposition of Rosemary Evans was to be introduced at trial. The defendants objected to portions of the tape, in particular Evans' statement that Ayers told her Lynch had "rubbed her crotch."[2] The parties agreed the statement was not true. The trial court ruled the statement was inadmissible. However, when the tape was played to the jury, the statement had not been redacted. The trial court immediately read the parties' stipulation to the jury informing them that Lynch never touched Ayers' 'crotch' and that they should disregard this testimony. Ayers herself also testified this never happened. We find no abuse of discretion or error warranting a mistrial. We affirm on this issue.

B. Evidence of Lynch's Drinking. We find this evidence relevant and admissible. Lynch either denied the harassing behavior had happened or disputed

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[1] This amount duplicates the back pay awards under Ayers' civil rights claims. Although we set aside the back pay award under the battery claim, Ayers' back pay awards under Title VII and ICRA remain unaffected.

[2] This alleged incident was distinct from the incident where Lynch cornered Ayers and rubbed up against her.

its sexual character. The evidence of his frequent intoxication was relevant to rebut the credibility of his denial and explain why he may not have recalled some of his misconduct. The fact he had been drinking when most of these incidents occurred also vitiates any suggestion that the behavior was innocent and not sexual.

The evidence is admissible under Iowa Rule of Evidence 406:

> Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

Such evidence, when offered to show that on a particular occasion something was done as usual "is naturally of probative value." Iowa R. Evid. 406 Committee Comment (citing *State v. Shelton,* 176 N.W.2d 159, 162 (Iowa 1970)). The gravamen of Ayers' hostile work environment is the repeated and similar nature of Lynch's conduct with her and other women, that is, conformity of a particular instance with his habit or usual practice. This was not a case under Iowa Rule of Evidence 404(b) where Ayers was trying to prove one or two prior bad acts; rather, the essence of the claim is to show a pattern of conduct or 'habit.' The district court did not abuse its discretion in admitting this evidence.

IV. Summary. With regard to Ayers' ICRA claim, we conclude sufficient evidence supported the district court's findings that a hostile work environment existed and Ayers was constructively discharged. We affirm the back pay, front pay, and attorney fee awards under Ayers' ICRA claim. We also conclude ICRA subjects Lynch, as a supervisor, to individual liability. On the battery claim, we determine there was sufficient evidence of the intent element. We affirm the jury's award of $15,000 in damages on the battery claim. However, we reverse its award

of back pay on this claim, finding no causal link between the battery and loss of pay.

Finally, we conclude Lynch received a fair trial.

AFFIRMED IN PART; REVERSED IN PART.