



**CONCURRING OPINION OF ELIZABETH L. SEISER:** The case is made close by the past history of conduct between the Claimant and Mr. Vlahoules. The Claimant had repeatedly complained of demeaning verbal castigation by Mr. Vlahoules. The vice-president, Sue Davenport, at some point spoke to Mr. Vlahoules and told him to “try to keep this stuff out of work.” (Tran at p. 23). This strikes me as a remarkably mild rebuke under the circumstances. As far as the record shows Mr. Vlahoules had not received discipline in the past, nor was he disciplined for hitting the Claimant during the exchange that led to the Claimant’s discharge. But while the history between the Claimant and Mr. Vlahoules gives the Claimant cause to complain of her work environment it did not justify the Claimant’s actions in the final incident. The Claimant ultimately initiated the physical contact in the final incident by straight-arming Mr. Vlahoules in the forehead when she could have retreated instead. Mr. Vlahoules also retaliated and pushed the Claimant when he could have retreated. Thus it is difficult to understand why serious discipline was not also imposed on Mr. Vlahoules. Nevertheless this does not change the fact that the Claimant initiated physical contact and was not acting out of the necessity of self defense from an assault.

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Elizabeth L. Seiser

RRA/ss