



# Maine Human Rights Commission

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EXECUTIVE DIRECTOR

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## COMMISSION MEETING MINUTES NOVEMBER 8, 2021 MEETING

*\*via ZOOM\**

Commissioner Deborah Whitworth chaired the meeting and called it to order at 8:30 AM. Also present were Commissioners Jefferson Ashby, Edward David, Jill Duson, and Julie O'Brien.

### AGENDA

Commissioner Ashby moved, seconded by Commissioner Duson, to adopt the Agenda and Consent Agenda to accept the Investigator's recommended decision in each of the cases listed on the Consent Agenda (see listing on page 4). 5 in favor | 0 opposed.

### MINUTES

Commissioner David moved, seconded by Commissioner Ashby, to adopt the September 20, 2021 Commission Meeting Minutes. 5 in favor | 0 opposed.

### ADMINISTRATION

Executive Director Sneirson reported on the following Commission activities:

#### Monthly reports:

- Personnel: Investigator Milo Gitchos tendered his resignation, with his last day to be Friday 11/12/2021. We look forward to advertising the position shortly.
- Compliance: Since the last meeting, there was one unsuccessful conciliation and were two successful conciliations. Six reasonable-grounds cases remain in active conciliation.
  - Commissioner Ashby moved, seconded by Commissioner David, to approve the conciliation agreements in the reasonable-grounds cases of Small v GOG Enterprises, LLC/Subway (E19-0323) and Ho v Charlie's Philly Steakery (E19-0424). 5 in favor | 0 opposed.
- New Charges: 75 new complaints filed in September and October 2021.
- Administrative Dismissals: 27 administrative dismissals issued in September and October 2021.
- Pre-determination settlements: 33 pre-determination cases settled with benefits of \$754,781 to complainants in September and October 2021.

#### Quarterly reports:

- Training & Education: Commission staff attended/participated in 12 training or education sessions in the first quarter of the fiscal year.
- Financial Reports: Presented and placed on file.
- Pending Inventory: 689 cases pending at the end of October.

The Commission completed the business portion of the agenda at 8:40 AM.  
At 8:45 AM Commissioner Whitworth began the case hearing agenda.

The following case was taken out of order:

H21-0204: Jodi Kateon (Portland) v. NFG Housing Partners, LP (Portland). Complainant was not present. Commissioner Ashby moved, seconded by Commissioner David, to find that there are no reasonable grounds to believe that the NFG Housing Partners, LP discriminated against Jodi Kateon on the basis of disability or retaliated against her for engaging in MHRA protected activity. 5 in favor | 0 opposed.

E19-0274\*: Marc McKellar (Bath) v. The Hertz Corporation (Oklahoma City, OK). Attorney Jennifer Whitney was present for the Respondent. No one appeared on behalf of Complainant or his estate. Commissioner David moved, seconded by Commissioner O'Brien, to find that there are **reasonable grounds** to believe Hertz Corporation discriminated against Marc McKellar based on his disability in the terms and conditions of his employment and by discharging him, and no reasonable grounds to believe that the Hertz Corporation discriminated against Marc McKellar based on his age in the terms and conditions of his employment by discharging him, and no reasonable grounds to believe that the Hertz Corporation retaliated against Marc McKellar in violation of the MHRA. 5 in favor | 0 opposed.

E19-0390\*: Amanda Sweden (Bangor) v. Career Systems Development Corporation d/b/a Penobscot Job Corps (Bangor). Attorney Elizabeth Strouder restated the position of the Respondent. Attorney Erik Black restated the position of the Complainant. Investigator Alice Neal reviewed and discussed their recommended determinations. Commissioner David moved, seconded by Commissioner Duson, to find that there are **reasonable grounds** to believe that Career Systems Development Corp. d/b/a Penobscot Job Corp. discriminated against Amanda Sweden in violation of the MHRA based upon her sex when it subjected her to a hostile work environment, and **reasonable grounds** to believe that Career Systems Development Corp. d/b/a Penobscot Job Corp. discriminated against Amanda Sweden in violation of the MHRA based upon her sex when it discharged her from employment, and **reasonable grounds** to believe that Career Systems Development Corp. d/b/a Penobscot Job Corp. retaliated against Amanda Sweden in violation of the MHRA and WPA because she engaged in protected activity. 5 in favor | 0 opposed.

E19-0402\*: Scott Temple (Portland) v. State of Maine Department of Administrative and Financial Services (Augusta). Assistant Attorney General Valerie Wright restated the position of the Respondent. Attorney Chad Hansen restated the position of the Complainant. Investigator Kit Thomson Crossman reviewed and discussed their recommended determinations. Commissioner Ashby moved, seconded by Commissioner Whitworth, to find that there are reasonable grounds to believe that the State of Maine Department of Administrative and Financial Services discriminated against Scott Temple on the basis of his disability (reasonable accommodation, discharge). 2 in favor | 3 opposed (David, O'Brien, Duson opposed); the motion failed, with a default finding that there are no reasonable grounds to believe unlawful discrimination occurred. Commissioner Ashby moved, seconded by Commissioner David, to find that there are no reasonable grounds to believe that the State of Maine Department of Administrative and Financial Services retaliated against Scott Temple for engaging in MHRA-protected activity. 5 in favor | 0 opposed.

E20-0025AB: Kathleen Kneeland (Windham) v. Residence Inn Marriott, Inc. (Boston, MA) and Patricia Wright (Boston, MA). Kathleen Kneeland restated her position as the Complainant. Attorney Taylor Harduvel restated the position of the Respondents. Investigator Alex Brindley reviewed and discussed her recommended determinations. Commissioner Ashby moved, seconded by Commissioner David, to find that there are no reasonable grounds to believe that the Residence Inn Marriott, Inc. and/or Patricia Wright discriminated against Kathleen Kneeland on the basis of sex and/or disability or retaliated against her for engaging in WPA and/or MHRA protected activity. 5 in favor | 0 opposed.

E20-0047: Jeffrey Mace, Sr. (Shirley Mills) v. Maine Department of Transportation (Augusta). Jeffrey Mace, Sr. restated his position as the Complainant. Assistant Attorney General Kelly Morrell restated the position of the Respondent. Investigator Jane O'Reilly reviewed and discussed her recommended determinations. Commissioner David moved, seconded by Commissioner Whitworth, to find that there are no reasonable grounds to believe that the Maine Department of Transportation retaliated against Jeffrey Mace, Sr. for engaging in MHRA or WPA protected activity. 5 in favor | 0 opposed.

H21-0199AB: Amy Forsythe (Auburn) v. Saco Falls Management, LLC. (Portland) and Andrea Ouellette (Auburn). Complainant was not present. Commissioner Ashby moved, seconded by Commissioner Duson, to find that there are no reasonable grounds to believe that Saco Falls Management, LLC discriminated against Amy Forsythe on the basis of disability by denying a reasonable accommodation request/use of an assistance animal, and no reasonable grounds to believe that Saco Falls Management, LLC discriminated against Amy Forsythe on the basis of disability, receipt of public assistance benefits, familial status, and/or her association with an individual based on race and/or color in the terms and conditions (not responding to her complaints, different application of rules, and/or making housing unavailable) of her housing, and no reasonable grounds to believe that Saco Falls Management, LLC and/or Andrea Ouellette retaliated against or interfered with the protected rights of Amy Forsythe for asserting her rights under the Maine Human Rights Act . 5 in favor | 0 opposed.

H21-0205: Linda Athearn (Rockland) v. Michael Mullins (Rockland). Linda Athearn restated their position as the Complainant. Attorney Kelley Mellenthin restated the position of the Respondent. Investigator Alex Brindley reviewed and discussed her recommended determinations. Commissioner Ashby moved, seconded by Commissioner Whitworth, to find that there are no reasonable grounds to believe that Michael Mullins discriminated against Linda Athearn on the basis of disability or retaliated against Linda Athearn based on MHRA protected conduct 5 in favor | 0 opposed.

At 11:33 AM the Commission recessed until the afternoon session. At 12:00 PM the Commission resumed for the afternoon session.

#### **CASES VOTED ON PM SESSION**

H21-0260AB: Gary Manuel (Bangor) v. Waterworks Development, LP (Bangor) and The Caleb Group (Bangor). Gary Manuel restated their position as the Complainant. Attorney Aubrey Russell restated the position of Respondents. Investigator Alice Neal reviewed their recommended determinations. Commissioner Whitworth moved, seconded by Commissioner Ashby, to find that there are no reasonable grounds to believe that Waterworks Development, LP and or The Caleb Group discriminated against Gary Manuel on the basis of disability, race, and/or color when it treated him differently in the terms and conditions of his housing, and no reasonable grounds to believe that Waterworks Development, LP and/or The Caleb Group retaliated against Gary Manuel for asserting his rights under the Maine Human Rights Act.. 5 in favor | 0 opposed.

H21-0268AB\*: Heather Babin (Saint Francis) v. Louis Albert (Fort Kent) and Michael Albert (Fort Kent). Attorneys Luke Rossignol and Josh Randlett restated the positions of Respondent Michael Albert. Complainant Heather Babin was not present. Investigator Kit Thomson Crossman reviewed their recommended determinations. Commissioner David moved, seconded by Commissioner Duson, to find that there are reasonable grounds to believe that Michael Albert discriminated against Heather Babin on the basis of disability, and no reasonable grounds to believe that Michael Albert discriminated against Heather Babin on the basis of receipt of public assistance or familial status or retaliated against her in violation of the MHRA, and no reasonable grounds to believe that Louis Albert discriminated against Heather Babin on the basis of disability, receipt of public assistance, or familial status, or retaliated against her in violation of the MHRA. 2 in favor | 2 opposed (Whitworth & O'Brien opposed) | 1 Abstained (Ashby abstained); the motion failed, with a default finding that there are no reasonable grounds to believe unlawful discrimination or retaliation occurred on all claims.

H21-0272AB\*: Kimberly Norwood (Bangor) v. Strictly Mobile Home, Inc. (Orland) and Mike Dennis (Brewer). Respondents were not present. Commissioner David moved, seconded by Commissioner Ashby, to find that there are **reasonable grounds** to believe that Strictly Mobile Homes, Inc. and/or Mike Dennis discriminated against Kimberly Norwood on the basis of disability (denial of reasonable accommodation), and **reasonable grounds** to believe that Strictly Mobile Homes, Inc. and/or Mike Dennis retaliated against Kimberly Norwood for engaging in MHRA protected activity. 5 in favor | 0 opposed

## EXECUTIVE SESSION

At 12:55 PM, Commissioner Whitworth moved, seconded by Commissioner Duson, to go into executive session to discuss pending or contemplated litigation and the Commission's legal rights and duties with Commission Counsel pursuant 1 M.R.S. §405(6)(E). 5 in favor | 0 opposed.

At approximately 1:13 PM, Commissioner Duson moved, seconded by Commissioner Ashby, to come out of Executive Session. 5 in favor | 0 opposed.

## LITIGATION

Commissioner Duson moved, seconded by Commissioner Ashby, to not litigate the following reasonable-grounds cases which were not successfully resolved via conciliation:

- E19-0157, Pomroy v. Cumberland Title Services, LLC;
- E19-0213, Sgroi v. Cumberland Title Services, LLC;
- E20-0007, Lyons v. Walmart; and
- E20-0422, Smith v. Beaulieu.

5 in favor | 0 opposed.

Commissioner Duson moved, seconded by Commissioner Ashby, to litigate the following reasonable-grounds cases which were not successfully resolved via conciliation:

- H21-0024-A/B/D/E, Osgood v. Summer Street Housing, Elizabeth Schuh, MCH, Inc., and MCH Housing, Inc.
- H/E19-0254-A/B Rodriguez v. Mejia-Bouchard and Mejia.
- H/E19-0255-A/B, Rodriguez and Rivera v. Mejia-Bouchard and Mejia.

5 in favor | 0 opposed.

At approximately 1:24 PM the meeting was adjourned.

## CONSENT AGENDA

The consent agenda is a listing of cases scheduled on the Commission's meeting agenda in which there was no written disagreement to the Investigator's recommendation. Commissioners considered these cases without oral argument by the parties.

E20-0010	Omar Ahmed (Portland) v. Commercial Cleaning Company, d/b/a BSC Cleaning Services (South Portland)	NRG
E20-0155	Paul Hood (Alexander) v. Woodland Pulp, LLC (Baileyville)	NRG
ED/PA20-0109	Pasquale Kourakos (Harrison, NY) v. Bridgton Academy (North Bridgton, ME)	NRG
H21-0258AB	Rebecca Martin (Bangor) v. Freese Building Associates, LP (Rockport) and Realty Resources Management of Maine (Bangor)	NRG

## CASES TABLED

H21-0196AB\* Yohannis Selassie (Augusta) v. Mark Fortin (Winthrop) and Michelle Fortin (Winthrop)

*\*Indicates a case in which a "reasonable grounds" finding is or was recommended.*