



## Maine Human Rights Commission

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**John P. Gause**  
COMMISSION COUNSEL  
ACTING EXECUTIVE DIRECTOR

### COMMISSION MEETING MINUTES

*19 Union Street ~ Augusta, Maine*

**September 19, 2011**

Commissioner Vestal called the September 19<sup>th</sup>, 2011 Commission meeting to order at 8:31 a.m. Present were Commissioners: Paul Vestal, Sallie Chandler, and Joseph Perry.

Commissioner Vestal called for adoption of the agenda.

- Acting Executive Director John P. Gause requested that case *E10-0002 Lori Levesque v. Allies, Inc.* be tabled to the October Commission Meeting. at the request of one of the parties.
- Acting Executive Director John P. Gause requested that case *E09-0565 Jean Ellis v. Spring Harbor Hospital* be tabled to the October Commission Meeting at the request of one of the parties.
- Acting Executive Director John P. Gause requested that case *E11-0205 Shirley Kelderhouse v. YMCA* be tabled to the October Commission Meeting at the request of one of the parties.
- Acting Executive Director John P. Gause requested that case *E10-0153 Sherrie Demmons v. Correctional Medical Services* be tabled to the October Commission Meeting.
- Acting Executive Director John P. Gause requested that case *E10-0459 John Malick v. Dragon Products LLC* be tabled to the October Commission Meeting.
- Acting Executive Director John P. Gause requested that case *E10-0585 Robert Kelly v. Mercy Hospital* be tabled to the October Commission Meeting.
- Acting Executive Director John P. Gause requested that case *E11-0049 Maureen LeClair v. OneSteel Recycling* be tabled to the October Commission Meeting.
- Acting Executive Director John P. Gause requested that case *E11-0126: Lloyd Kelly v. Katahdin Paper Company LLC* be tabled to the October Commission Meeting.
- Acting Executive Director John P. Gause requested that case *E11-0169: John MacMillan v. Northern New England* be tabled to the October Commission Meeting.
- Acting Executive Director John P. Gause requested that case *E11-0001: Rene Ted Laguerre v. Hearst Communications, Inc.* be tabled to the October Commission Meeting due to pending settlement.
- Acting Executive Director John P. Gause requested that case *E11-0034: Butol Shaffiey v. GHM Portland MAR, LLC d/b/a Mariott Sable Oaks, Inc.* be removed from the Agenda due to settlement.

- Acting Executive Director John P. Gause requested that case *E11-0086: Irene Morton v. Casco (Town of)/Fire & Rescue* be tabled to the October Commission Meeting.
- Acting Executive Director John P. Gause requested that case *E09-0533 Patricia Brennan v. Independence Association, Inc. Portland MAR, LLC d/b/a Mariott Sable Oaks, Inc.* be removed from the Agenda due to settlement.

Commissioner Chandler moved, seconded by Commissioner Perry to adopt the agenda as amended. 3 in favor | 0 opposed.

**CONSENT AGENDA** (*see detailed listing on page 6*)

Commissioner Chandler moved, seconded by Commissioner Perry, to accept the Investigator’s recommendations in each of the cases on the Consent Agenda. 3 in favor | 0 opposed.

**MINUTES**

Commissioner Chandler moved, seconded by Commissioner Vestal to adopt the August 8, 2011 Commission Meeting Minutes as amended. 2 in favor | 0 opposed | 1 abstained (Joe Perry abstained)

**ADMINISTRATION**

Personnel Report: Acting Executive Director John P. Gause reviewed the report dated September 13, 2011 noting the addition of two student externs that have joined the Commission staff through December 2011. Former Director Patricia Ryan will be assisting the Commission with mediations.

**COMPLIANCE**

Compliance Report: Commissioners reviewed the compliance report and it was placed on file.

Commissioner Chandler moved, seconded by Commissioner Perry to dismiss E09-0418: Duran V. Hannaford as the case has been resolved by the parties. 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry to dismiss PA10-0323: Myshrall v. Peter Morse & Peter Morse, Inc., as the case has been resolved by the parties. 3 in favor | 0 opposed.

**INVESTIGATION**

- New Charges: Commission staff opened 62 new cases in August.
- Administrative Dismissals: Commission staff dismissed 68 cases in August.
- Pre-determination Settlements: Since the May Commission meeting, staff were responsible for obtaining settlements in 14 cases resulting in total monetary relief in excess of \$170,000 for complainants.

**LITIGATION:** Moved to Executive Session.

**NEW BUSINESS:** Acting Executive Director John P. Gause provided an overview of a memo on the Revised guidance for service animals in housing dated September 12, 2011. Commissioner Chandler moved, seconded by Commissioner Perry to adopt the revised guidance for service animals and housing. 3 in favor | 0 opposed.

Acting Executive Director John P. Gause reviewed a memo dated September 12, 2011 outlining the proposed 2011-12 Regulatory Agenda.

At 8:43 Chair Vestal called for a 5 minute recess.

#### **8:45 CASES VOTED ON:**

*E10-0007: Wanda Thomas (Damariscotta) v. Providence Service Corp. (Fredericksburg, VA).* Wanda Thomas restated the position of the Complainant. Bart Beattie restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Complainant, Wanda L. Thomas was subject to unlawful discrimination in employment (reasonable accommodation) or constructively discharged by Respondent, Providence Services Corporation, due to her disabilities. 3 in favor | 0 opposed.

*E10-0011: Rachel Jalbert (Auburn) v. Lewiston Daily Sun, Inc. (Lewiston); E10-0012: Rachel Jalbert (Auburn) v. Mike Theriault (Lewiston):* Rachel Jalbert restated the position of the Complainant. Attorney Michael Poulin restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondent, Lewiston Daily Sun, Inc. and Mike Theriault, retaliated against Complainant, Rachel Jalbert, for whistleblower activity. 3 in favor | 0 opposed.

*E10-0013: Sharon Bernier (Biddeford) v. Maine State Employees Assn. (Augusta):* Sharon Bernier restated the position of the Complainant. Jeffrey Neil Young restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondent, Maine State Employees Association, subjected the Complainant, Sharon Bernier, to discrimination because of her age, disability, and/or whistleblower activity. 3 in favor | 0 opposed.

*E10-0043: Daimon Clark (Augusta) v. Kenway Corporation (Augusta); E10-0044: Daimon Clark (Augusta) v. Ian Kopp (Augusta); E10-0045: Daimon Clark (Augusta) v. Michael Hall (Augusta) E10-0046: Daimon Clark (Augusta) v. Charles Norton (Augusta); E10-0047: Daimon Clark (Augusta) v. Paula Gravelle (Augusta):* Complainant was not present. Attorney Glen Israel restated the position of the Respondent. Investigator Domini Pham restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that the Respondents, Kenway Corporation, Ian Corpp, Mark Hall, Charles Norton, and Patricia Gravelle, discriminated against Complainant, Damon Clark, on the basis of his physical disability. 3 in favor | 0 opposed. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondents, Kenway Corporation, Ian Copp, Mark Hall, Charles Norton, and Patricia Gravelle, engaged in unlawful sexual orientation harassment against Complainant, Damon Clark. 3 in favor | 0 opposed.

*E10-0105: Michael Burden (Bridgeton, NJ) v. University of Maine System (Orono).* Michael Burden restated the position of the Complainant. Brenda Haskell restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondent, University of Maine System, discriminated against Mr. Michael Burden based upon race and/or color. 3 in favor | 0 opposed.

*E10-0164: Steven Memmelaar (Brewer) v. Wal-Mart Stores East, L.P. (Bentonville, AR).* Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Complainant, Steven J. Memmelaar, was subjected to unlawful

discrimination in employment (reasonable accommodation) by Respondent, Wal-Mart Stores East, LP, due to his disabilities. 3 in favor | 0 opposed.

*E10-0168: Sharon Veach (Palmyra) v. AE Robinson Oil Co, Inc. (Dover Foxcroft).* Complainant was not present. Commissioner Perry moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that A.E. Robinson Oil Co., Inc. discriminated against Sharon Veach on the basis of disability by terminating her. 3 in favor | 0 opposed. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable ground to believe that A.E. Robinson Oil Co., Inc. retaliated against Sharon Veach for complaining of unsafe conditions in the workplace, in violation of the Maine Whistleblowers' Protection Act. 3 in favor | 0 opposed.

*E10-0357: Heather Dunphy (Millbridge) v. Blueberry Ford, Inc. (Machias).* Attorney Mark Dunlap restated the position of the Respondent. Attorney Jeffrey Neil Young restated the position of the Complainant. Investigator Angela Tizon restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find **reasonable grounds** to believe that Blueberry Ford, Inc. discriminated against Heather Dunphy by subjecting her to a hostile work environment based on sex, and by constructively discharging her. 3 in favor | 0 opposed.

### **EXECUTIVE SESSION:**

Commissioner Chandler moved, seconded by Commissioner Perry to move into executive session at 10:28 a.m. to discuss confidential records and litigation with Commission Counsel pursuant to 1 M.R.S.A. §405(6)(A); (E); and (F). 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry, to move out of executive session at 11:53 a.m. 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry that the Commission **should not file** a complaint in H10-0224: Darrell Marin & Harold Damon v. Robert Gariepy, Sr., Anna Gariepy, and Gariepy, Jr. 3 in favor | 0 opposed.

At 10:35 Chair Vestal adjourned the meeting until the afternoon session.

At 1:00 Chair Vestal called the afternoon session of the Commission meeting to order.

### **1:00 PM CASES VOTED ON:**

Acting Executive Director John P. Gause requested that case *H11-0340: Theresa Currie (Bath) v. Erika Benson (Bath)/Philip & Carol Helgerson (Arlington, VA)* be tabled to the October Commission Meeting at the request of one of the parties.

*E10-0479: Terry Cain (Gray) v. American Legion Post 155 (Naples).* Attorney Robert Kline Restated the position of the Respondent. Attorney Jeffrey Neil Young restated the position of the Complainant. Legal Intern George Dyer restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that the Respondent unlawfully refused to accommodate Complainant's disability and **reasonable grounds** to believe that the Respondent, American Legion Post 155, terminated Complainant, Terry Cain, because of disability. 2 in favor | 1 opposed. (Paul Vestal opposed.)

*E10-0620: Ronald Vilandry (Lebanon) v. Lank Machining Co LLC (Saco).* Dell Lank restated the position of the Respondent. Attorney Chad Hansen restated the position of the Complainant. Angela Tizon restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry

to find **reasonable grounds** to believe Lank Machining Co., LLC discriminated against Ronald Vilandry on the basis of age by refusing to hire him for the CNC Operator position. 3 in favor | 0 opposed.

*E10-0639: Fred Brown (Glenburn) v. Bottling Group LLC d/b/a Pepsi Beverages Company (Hampden).* Fred Brown restated the position of the Complainant. Joe Black restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that Bottling Group, L.L.C. d/b/a Pepsi Beverages Company discriminated against Fred Brown on the basis of age by subjecting him to less favorable terms and conditions of employment and by constructively discharging him. 3 in favor | 0 opposed.

*H11-0184: Gary Manuel (Bangor) v. Paul and Wendy Baron (Bangor).* Complainant was not present. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondents, Paul and Wendy Baron, refused to rent to the Complainant, Gary E. Manuel, because of race, color, disability, familial status, or receipt of public assistance. 3 in favor | 0 opposed.

*E11-0209: Katherine Mitton (Cumberland Foreside) v. Intermed (South Portland).* Attorney Howard Reben restated the position of the Complainant. Attorney Norman Belanger restated the position of the Respondent. Investigator Domini Pham restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that Respondent, Intermed, discriminated against the Complainant, Katherine Mitton, because of her physical disabilities by denying her reasonable accommodations, and to find no reasonable grounds to believe that Respondent, Intermed, discriminated against the Complainant, Katherine Mitton, on the basis of age. 3 in favor | 0 opposed.

*H11-0423: Esther McLaughlin (Bath) v. Middle Street Properties LLC/Joel Bowie (Phippsburg).* Joel Bowie restated the position of the Respondent. Attorney Patricia Ender restated the position of the Complainant. Investigator Robert Beauchesne restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find **reasonable grounds** to believe that the Respondents, Middle Street Properties, LLC and Joel Bowie, discriminated in the terms and conditions of rental, against the Complainant, Esther McLaughlin, on the basis of disability. 3 in favor | 0 opposed. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondent discriminated against the Complainant because of her receipt of public assistance. 3 in favor | 0 opposed.

#### **ADJOURN:**

There being no further business to come before the Commission, the meeting was adjourned at 2:30 p.m.

## CONSENT AGENDA

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

H09-0465:	Michael Kennedy (Marlborough, MA) v. Arlington Arms Condominium Assoc., Inc. / Robert Regan/Norma Lamb/Susan Fick (Kennebunkport) .....	NRG
H09-0465-A:	Michael Kennedy (Marlborough, MA) v. R & E Associates, Inc. (Kennebunk).....	NRG
E09-0512:	Peter Turnbull (Woodville) v. State of Maine/Dept. of Transportation (Augusta) .....	NRG
E09-0529:	Kenneth Jones (Eastport) v. Lockheed Martin Corporation (Pensacola, Fl.).....	NRG
E09-0583:	Deborah Howe-Parent (Kenduskeag) v. Hartt Transportation Syst., Inc. (Bangor).....	NRG
E09-0600:	Ricki-Ann Stevens (Limerick) v. North Star Farm, Inc. (North Waterboro) .....	NRG
E09-0606:	Shannon Frankland (Buxton) v. Counseling Services, Inc. (Saco) .....	NRG
E09-0607:	Cynthia Paradis (East Waterboro) v. JD Express Mart (Sanford) .....	NRG
PA10-0014:	Clint Sabattis (Princeton) v. Circle K Great Lakes Div. d/b/a Baileyville Big Stop .....	NRG
E10-0095:	Nicholas Webster (Windham) v. Scott Thayer Auto Sales (Auburn) .....	NRG
E10-0135:	Maryann White (Gardiner) v. Lawrence Jr. High School (Fairfield)	
E10-0136:	Maryann White (Gardiner) v. Roberta Hersom (Fairfield)	
E10-0137:	Maryann White (Gardiner) v. William Pullen (Fairfield) .....	NRG
E10-0149:	Jonathan Peltzman (Lecanto, FL.) v. Lowe's Home Centers, Inc. ( Mooresville, NC) .....	NRG
E10-0298:	Valerie Albert (Yarmouth) v. Salon Freeport, LLC (Freeport) .....	RG
E10-0300:	Daniel Adams (Lewiston) v. Student Transportation of America, Inc. d/b/a Ledgemere Transportation, Inc. (Wells) .....	NRG
E10-0356:	Kimberly Holmes (Portland) v. Bagel & Bakes, Inc d/b/a Mister Bagel (Portland) .....	NRG
E10-0472:	Eric Hansen (Calais) v. H & D Enterprises, LLC d/b/a McDonald's of Calais (Houlton) ..	NRG
PA10-0514:	Santos Baez (South Portland) v. Genesco, Inc. (Nashville, Tn.) .....	RG
E10-0515:	Carol Maczuba (Bridgton) v. Bridgton Hospital (Bridgton) .....	NRG
E10-0617:	Patrick Cazneau (Norway) v. LL Bean (Freeport) .....	NRG
E11-0017:	Sulemana Samare (Biddeford) v. Kindred Healthcare d/b/a Brentwood Nurs. & Rehab. Ctr. (Yarmouth) .....	NRG
E11-0019:	Eric Maxim (Durham) v. TD Bank (North Andover, Ma.) .....	NRG
E11-0048:	Michelle Sovetsky (Hallowell) v. Employment Specialists of Maine, Inc. (Augusta).....	RG
PA11-0060:	Ryishisa Morris (Portland) v. Piercing Pagoda (S. Portland).....	NRG
E11-0061:	Bryce Lane (Brewer) v. Sam's East, Inc. (Bangor).....	RG
E11-0064:	Carlene Brockmann (Cherryfield) v. Washington/Hancock Community Agency (Milbridge) .....	NRG

E11-0085: Jay Beck (Lisbon) v. Bath Iron Works (Bath) ..... NRG  
E11-0100: Patrick Coyne (Westbrook) v. Sysco Foods Northern New England (Westbrook) ..... NRG  
E11-0104: Kathleen Curtis (Levant) v. Hanger Prosthetics & Orthodics, Inc. (Williamsburg,VA)..... NRG  
E11-0139: Christopher Davis (Old Orchard Beach) v. Auburn Concrete (Auburn)..... NRG  
E11-0172: Ingrid Taber (Danville) v. HC Kingston, DMD, PA d/b/a Kingston Family Dental (Eliot) NRG  
E11-0193: Jacob Bilodeau (Bangor) v. Hogan Road Donuts LLC d/b/a Dunkin Donuts (Bangor) ..... NRG  
E11-0206: Maurice Santamore (Portland) v. Cozy Harbor Seafood (Portland) ..... NRG  
H11-0283: William Coates (Portland) v. Portland Housing Auth/Russell Johnson (Portland)  
H11-0284: William Coates (Portland) v. MPB Properties/ Susan McLain (Portland)..... NRG  
H11-0327: Ricky Emery/Marcy Runnells (Old Town) v. Elmer McAuliffe (Bangor) ..... NRG