



Maine Human Rights Commission

51 State House Station, Augusta, ME 04333-0051

Physical location: 19 Union Street, Augusta, ME 04330

Phone (207) 624-6290 □ Fax (207) 624-8729 □ TTY: Maine Relay 711

www.maine.gov/mhrc

Amy M. Sneirson
EXECUTIVE DIRECTOR

Barbara Archer Hirsch
COMMISSION COUNSEL

COMMISSION MEETING MINUTES

19 Union Street ~ Augusta, Maine

January 26, 2015

Commission Chair Arnold Clark called the January 26th Commission meeting to order at 8:30 a.m. Present were Commissioners Arnold Clark, Sallie Chandler, John Norman, Deborah Whitworth, and A. Mavourneen Thompson.

AGENDA

Commissioner Clark called for adoption of the Agenda and Consent Agenda.

Commissioner Chandler moved, seconded by Commissioner Whitworth, to adopt the Agenda as Amended and accept the Investigator's recommendations in each of the cases on the Consent Agenda. 5 in favor | 0 opposed (see detailed listing on page 4).

MINUTES

Commissioner Chandler moved, seconded by Commissioner Whitworth, to adopt the December 15, 2014 Commission Meeting Minutes as corrected. 5 in favor | 0 opposed.

QUARTERLY PROGRAM REVIEW

- Inventory Status Report & Resolutions: There were 770 open cases at the end of September. The Commission closed 189 cases during the preceding quarter with 38 settlements resulting in over \$346,000 to complainants.
- Training/Education: Commissioners reviewed the quarterly report indicating that staff presented at 5 training sessions and attended 12 training sessions.
- Litigation - Commissioners agreed to move this item to another part of the agenda when the Commission could go into Executive Session.
- Financial: Commissioners reviewed the quarterly financial report and it was placed in the file.

Executive Director Amy Sneirson requested the remaining business be taken after the morning cases are heard on the agenda.

ADMINISTRATION

Personnel Report: Executive Director Amy Sneirson reported that there were no personnel changes so no report was issued.

COMPLIANCE

Commissioners reviewed the compliance report showing no successful conciliations, no unsuccessful conciliations, and five conciliations in progress. It was placed on file.

INVESTIGATION

New Charges: Commission staff opened 54 new cases in December.

Administrative Dismissals: The Executive Director administratively dismissed 32 cases in December.

Pre-determination Settlements: Since December, 14 cases resulted in settlements with total monetary relief in excess of \$209,845 for complainants.

NEW BUSINESS: Executive Director Amy Sneirson provided a review of current legislator requests that may relate to the Maine Human Rights Act in the upcoming session, with 4 bills pending that involve service animal provisions of the MHRA. Additionally, a pending bill not introduced by the Commission aims to provide protections for complainants' medical records and the identities of minor children named in cases by exempting that information from production of closed Commission investigations under the Freedom of Access Act.

Executive Director Amy Sneirson requested the remaining business (litigation, other new business) be taken after the morning cases were heard on the agenda.

At 8:40 Commissioner Chair Clark called for a 5 minute recess.

CASES VOTED ON 8:45 A.M.:

PA13-0021: Jessica M. Mathieu (Lewiston) v. Central Maine Community College (Auburn). Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Norman, to find no reasonable grounds to believe Central Maine Community College discriminated against Jessica Mathieu by failing to make a reasonable modification in a policy or practice necessary to ensure her full and equal access to a place of public accommodation and an educational institution. 5 in favor | 0 opposed.

E13-0121: Lorraine Scamman (Saco) v. Shaw's Supermarkets, Inc. (Saco),

E13-0122: Theresa Charette (Sanford) v. Shaw's Supermarkets, Inc. (Sanford), and

E13-0217: Dorothy Riley (Windham) v. Shaw's Supermarkets, Inc. (Brunswick): Attorney Joshua Scott restated the position of the Respondent. Attorney Jeffrey Neil Young restated the position of the Complainants. Investigator Angela Tizón restated the facts of case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds believe that Shaw's Supermarkets, Inc. discriminated against Theresa Charrette, Lorraine Scamman, and Dorothy Riley on the basis of age by terminating their employment (disparate treatment). 5 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Shaw's Supermarkets, Inc. discriminated against Theresa Charrette, Lorraine Scamman, and Dorothy Riley on the basis of age by implementing a practice that had an adverse impact based on age and resulted in the separation of their employment (disparate impact). 5 in favor | 0 opposed.

E13-0262: Lynn Foshay (South Portland) v. Lowe's Home Centers, Inc. (Portland). Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Norman, to find no reasonable grounds to believe Complainant Lynn A. Foshay was subjected to discrimination based on age in the terms and conditions of her employment by Respondent Lowe's Home Centers, Inc. 5 in favor | 0 opposed.

E13-0335: Harold Harris (Rome) v. S.D. Warren Company d/b/a Sappi Fine Paper North America (Skowhegan). Attorney Jeffrey Neil Young restated the position of the Complainant. Attorney Michelle Bush restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Complainant Harold Harris was subjected to religious discrimination (failure to accommodate)

by Respondent S.D. Warren Company d/b/a Sappi Fine Paper North America. 4 in favor | 1 opposed. (Arnold Clark opposed).

At 10:02 Chair Clark called for a five minute recess.

E13-0365: Julie Millett (Mechanic Falls) v. St. Mary's Health System (Auburn). Attorney Kelly Hoffman restated the position of the Respondent. Attorney Kelly Hoffman restated the position of the Respondent. Attorney Matthew Keegan restated the position of the Complainant. Investigator Michele Dion restated the facts of the case. Commissioner Clark moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that St. Mary's Health System discriminated against Complainant Millett based upon sex, retaliation or protected whistleblower activity. 4 in favor | 0 opposed | 1 Abstained (Thompson abstained). Commissioner Chandler moved, seconded by Commissioner Clark, to find **reasonable grounds** to believe that St. Mary's Health System discriminated against Julie Millett based upon failure to accommodate mental/physical disability. 3 in favor | 1 opposed | 1 abstained. (Norman opposed; Thompson abstained).

E13-0646: Jeffrey Forbes (Peabody, MA) v. County of York (York). Attorney Timothy O'Brien restated the position of the Respondent. Attorney Nicholas Hobbs restated the position of the Complainant. Investigator Tizón restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that the County of York discriminated against Jeffrey Forbes on the basis of disability by denying him a reasonable accommodation for his disability in its applicant testing, resulting in his inability to secure employment. 1 in favor | 3 opposed | 1 abstained. (Clark, Whitworth and Norman opposed; Chandler abstained). Commissioner Whitworth moved, seconded by Commissioner Norman, to find **reasonable grounds** to believe that the County of York discriminated against Jeffrey Forbes on the basis of disability by denying him a reasonable accommodation for his disability in its applicant testing, resulting in his inability to secure employment. 3 in favor | 1 opposed | 1 abstained (Thompson opposed; Chandler abstained).

H14-0554: Dawn Zammuto (Farmington) v. Oakley & Donna Brann (Norridgewock). Attorney John Martin restated the position of the Respondents. Attorney Patricia Ender restated the position of the Complainant. Investigator Victoria Ternig restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Respondents Oakley and Donna Brann discriminated against Complainant Dawn Zammuto in the terms and conditions of her housing when they denied her a reasonable accommodation in housing on the basis of disability in violation of the Maine Human Rights Act. 5 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Respondents Oakley and Donna Brann retaliated against Complainant Dawn Zammuto in housing for asserting her rights under the Maine Human Rights Act and for filing a complaint with the Maine Human Rights Commission. 5 in favor | 0 opposed.

EXECUTIVE SESSION:

At 12:26 p.m. Commissioner Chandler moved, seconded by Commissioner Whitworth, to move into executive session to discuss litigation with Commission Counsel pursuant 1 M.R.S. §405(6)(E). 5 in favor | 0 opposed.

At approximately 1:10 p.m. Commissioner Chandler moved, seconded by Commissioner Whitworth, to come out of executive session. 5 in favor | 0 opposed.

LITIGATION:

Commissioner Chandler moved, seconded by Commissioner Whitworth, to approve the conciliation agreement in PA12-0004: June Ellis v. Spectrum Generations. 4 in favor | 0 opposed | 1 abstained (Clark abstained).

Commissioner Chandler moved, seconded by Commissioner Whitworth, to dismiss E12-0031: Kamke v. Town of Lisbon and E12-0032: Kamke v. Ryan Leighton, as both reasonable-grounds cases were resolved via conciliation agreement and all conciliation agreement terms have been fully implemented. 5 in favor | 0 opposed.

ADJOURNMENT:

There being no further business to come before the Commission, Commissioner Norman moved, seconded by Commission Chair Clark, to adjourn the meeting the meeting at 1:13 PM. 5 in favor | 0 opposed.

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.

CONSENT AGENDA

E13-0340:	Mary Chasse (Scarborough) v. Key Bank National Association (South Portland)	NRG
E13-0606:	Kathleen Boynton (Mechanic Falls) v. Family Dollar, Inc. d/b/a Family Dollar (Charlotte, N.C.)	NRG
PA13-0618:	Tabitha Felkner (Belfast) v. Waldo County General Hospital (Belfast)	NRG
E13-0654:	Michael Cuddy (Portland) v. Whole Foods Market Group, Inc. (Portland)	NRG
E13-0655:	Elizabeth Holcomb (Eliot) v. Billy’s Chowder House, Inc, (Wells)	NRG
E13-0698:	Ryan Leeman (Chesterfield, M.O.) v. Hopkins Landscaping, LLC (Hermon)	NRG
PA13-0710:	Shirley Cox (Portland) v. Cigarette Shopper (Brewer)(Cont.)	NRG
E13-0714:	Michael Damon (Portland) v. Graham Behavioral Services, Inc. (Augusta)	NRG
E13-0718:	William Patterson (Brownville) v. Marquis Heating, Inc. (Old Town)	NRG
E13-0724:	Harold Spellman (Saco) v. The Caleb Group, Inc. (Swampscott, M.A.)	NRG
PA14-0010:	Mark O’bershaw (Warren) v. State of Maine, Department of Corrections, Maine State Prison (Augusta)	NRG
H14-0265:	Cass Newell (Buxton) v. James Benoit (Yarmouth)	NRG
H14-0411 & H14-0412: (Skowhegan)	Mary Maki & Ben Rogers (Bangor) v. JRG Properties (Bangor) Mary Maki & Ben Rogers (Bangor) v. EWT, LLC 10 & Eaton W. Tarbell, Jr. (Concord, NH)	NRG
H14-0441:	Jonathan & Abby Dale & o/b/o Minor Child (Biddeford) v. Michele Trahan (Old Orchard Beach)	NRG