



# Maine Human Rights Commission

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## COMMISSION MEETING MINUTES

*19 Union Street ~ Augusta, Maine*

**June 1, 2015**

Commission Chair Arnold Clark called the June 1<sup>st</sup> Commission Meeting to order at 8:32 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.

Executive Director Amy Sneirson advised the following case has been tabled to the July 13, 2015 Commission Meeting:

E14-0244: Jennifer Capen (Hallowell) v. Regional School Unit No. 73 (Livermore Falls)

Commissioner Chandler moved, seconded by Commissioner Whitworth, to adopt the Agenda as amended. 5 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson, to adopt the Investigator's recommendations in each of the cases on the Consent Agenda. 5 in favor | 0 opposed (see detailed list on page 5).

### MINUTES

Commissioner Chandler moved, seconded by Commissioner Whitworth, to adopt the April 2015 Commission Meeting Minutes as corrected. 5 in favor | 0 opposed.

### ADMINISTRATION

Personnel Report: Executive Director Amy Sneirson reported that there was one personnel change since the last Commission meeting, as our Office Associate II resigned to take another position. This is the result of longstanding uncertainty about what funding for staff positions will be in the upcoming Biennial Budget. The Biennial Budget proposal included funding for a new Field Investigator position but cut funds that support a Paralegal Assistant position. If the Paralegal Assistant position is cut, that employee may bump the Office Associate II. The Legislature did include the Field Investigator position and also funding to maintain the Paralegal Assistant position in the Biennial Budget, but the outcome is uncertain. The Commission will not fill the vacant Office Associate II position while we await the resolution of the Biennial Budget process.

## **COMPLIANCE**

Commissioners reviewed the compliance report showing that since the last Commission meeting, we have had three successful conciliations, one unsuccessful conciliation, and nine conciliations in progress. It was placed on file.

Commissioner Chandler moved, seconded by Commissioner Whitworth, to approve the conciliation agreement in case H14-0534, PTLA vs. Craig. 5 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Norman, to approve the conciliation agreement in case PA13-0193, Panther v. Penobscot Aerie No 3177 Fraternal Order of Eagles. 5 in favor | 0 Opposed.

Commissioner Norman moved, seconded by Commissioner Chandler, to dismiss case E12-0107, Clapp v. Securitas Security Services, as the conciliation agreement has been fully implemented. 5 in favor | 0 Opposed.

## **INVESTIGATION**

New Charges: Commission staff opened 44 new cases in April.

Administrative Dismissals: The Executive Director administratively dismissed 10 cases in April.

Pre-determination Settlements: Since April 14, 2015, nine cases resulted in settlements with total monetary relief of nearly \$138,000 for complainants.

At 8:45 Chair Clark called for a 1 minute recess.

## **CASES VOTED ON 8:45 A.M.:**

E13-0216: Leanne Smith (Phillips) v. Franklin Memorial Hospital (Farmington). Attorney Amy Dietrich restated the position of the Complainant. Attorney Katherine Rand restated the position of the Respondent. Investigator Alice Neal restated the facts of the case. Commissioner Thompson moved to believe there are reasonable grounds to believe Franklin Memorial Hospital retaliated against Leanne Smith in violation of the Maine Human Rights Act and Maine Whistleblowers' Protection Act because she engaged in protected activity. The motion was not seconded, and failed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Franklin Memorial Hospital retaliated against Leanne Smith in violation of the Maine Human Rights Act and Maine Whistleblowers' Protection Act because she engaged in protected activity. 4 in favor | 1 opposed (Thompson opposed).

E13-0270: Ismith Phanord (Portland) v. AFSCME Council 93 (Boston, MA). Attorney Sarah Churchill restated the position of the Complainant. Respondent was not present. Investigator Angela Tizón restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that AFSCME Council 93 discriminated against Ismith Phanord on the basis of race, color, and national origin by denying him effective communication related to his national origin and by subjecting him to less favorable terms and conditions of the representation process; 5 in favor | 0 opposed.

PA13-0699: Ricky Soucy, Sr. (Warren) v. State of Maine, Department of Corrections, Maine State Prison (Augusta). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that State of Maine, Department of Corrections, Maine State Prison discriminated against Ricky Soucy, Sr. on the basis of disability by denying him reasonable modification; and there are no reasonable grounds to believe that State of Maine, Department of Corrections,

Maine State Prison discriminated against Ricky Soucy, Sr. on the basis of disability by removing him from prison employment. 5 in favor | 0 opposed.

E13-0595: Zagbayou Dagbo (Augusta) v. MaineGeneral Medical Center (Augusta). Zagbayou Dagbo restated his position as the Complainant. Attorney Katherine Rand restated the position of the Respondent. Investigator Alice Neal restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that MaineGeneral Medical Center discriminated against Zagbayou Dagbo by failing to hire him based on his race, color, ancestry/national origin, religion, and/or age in violation of the MHRA. 5 in favor | 0 opposed.

At 10:16 AM Chair Clark called for a 5 minute recess.

E14-0348: Dianne Richardson (Lamoine) v. Downeast Horizons, Inc. (Ellsworth). Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Downeast Horizons, Inc., discriminated against Dianne Richardson by failing to reasonably accommodate her disability, which resulted in the termination of her employment. 5 in favor | 0 opposed.

### **NEW BUSINESS:**

Executive Director Amy Sneirson provided a review of the Commission's involvement in bills pending at the Legislature this session, including:

Service animal bills:

Originally four were introduced, but one was combined with another and one was killed early in the session.

- One bill was amended to become a proposal to create a study group to look at issues surrounding service animals; the group would include someone from the Commission. This bill, LD 872, was voted "ought to pass" through the Agriculture Committee.
- The other bill proposed new restrictions on rights to service animals in housing, including a presumption that an animal was not a service animal if a particular form was not used, allowing additional deposits to be required, and other items that violate the federal Fair Housing Act. This bill, LD 221, was voted "ought not to pass" in the Judiciary Committee.

Proposals to add new protected classes to the MHRA, heard in the Judiciary Committee:

- LD 950 would add vaccination status (voted ought not to pass).
- LD 1103 would add protection in employment for employees' reproductive health decisions (voted ought to pass).

Proposal we supported to allow the Commission to protect private information not appropriate for public review under FOIA, LD 1171, was voted "ought to pass" by the Judiciary Committee. The information that would be protected was reviewed with the Commissioners.

Proposal to create a study group to review issues surrounding parking for persons with disabilities, LD 902, would include someone from the Commission. This was voted "ought to pass" in the Transportation Committee.

Proposal to prohibit employers from asking high school graduation date on job applications, LD 673, was voted "ought not to pass" in the Labor Committee.

**EXECUTIVE SESSION:**

At 11:03 a.m. Commissioner Chandler moved, seconded by Commissioner Norman, 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 11:07 a.m. Commissioner Chandler moved, seconded by Commissioner Norman, to come out of executive session. 5 in favor | 0 opposed.

**LITIGATION:**

Commissioner Thompson moved, seconded by Commissioner Whitworth, that the Commission should not litigate the case of E13-0646, Forbes v. York County Sheriff's Office. 5 in favor | 0 opposed.

Commissioner Whitworth moved, seconded by Commissioner Thompson, that the Commission should litigate the following cases: H14-0500, Turton v. Emilio Estates, and H14-0554, Zammuto v. Brann. 5 in favor | 0 opposed.

**ADJOURNMENT:**

There being no further business to come before the Commission, Commissioner Whitworth moved, seconded by Commissioner Chandler, to adjourn the meeting the meeting at 11:25PM . 5 in favor | 0 opposed.

## 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.

E13-0213:	Emily Bastain (New Gloucester) v. State of Maine, Department of Inland Fisheries and Wildlife (Augusta)	NRG
E13-0244:	Susan McClain (Tulsa, OK) v. H.M. Thomas Associates, Inc. (Brunswick)	NRG
E13-0269:	Mary Gray (Cape Elizabeth) v. YMCA of Southern Maine (Portland)	RG
E13-0281:	Ruth Zimba (Waterville) v. MaineGeneral Medical Center (Augusta)	NRG
E13-0429:	Jo-Ann Brown (Lewiston) v. T.D. Bank N.A. (Lewiston)	NRG
E13-0620:	Lisa Lennan (Vassalboro) v. Spa Tech Institute (Ipswich, MA)	RG
E13-0625:	Victoria Otte (Westbrook) v. Double Tree Hotel (South Portland)	NRG
E13-0693:	Arthur LaCourse (Biddeford) v. Creative Work Systems (Portland)	NRG
E14-0057:	Kevin Estes (Skowhegan) v. Waterville Sewerage District (Waterville)	NRG
PA14-0080:	Louis DeAngelis (Ocean Park) v. State of Maine, Office of the Attorney General (Augusta)	NRG
E14-0081:	Donald Ouellette (Hampden) v. Bangor Hydro Electric Company (Bangor)	NRG
PA14-0112:	Elyse St. Laurent (Portland) v. State of Maine, Department of Labor, Division of	NRG
PA14-0421:	Harold Glidden (Warren) v. State of Maine, Department of Corrections, Inland Fisheries and Wildlife (Augusta) Vocational Rehabilitation (Augusta) Maine State Prison (Augusta)	NRG
H14-0675:	Jesse and Karen Abrams (Bowdoinham) v. Richard and Sandra Wolske (Georgetown)	NRG