



Maine Human Rights Commission

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COMMISSION MEETING MINUTES

19 Union Street ~ Augusta, Maine

July 13, 2015

Commission Chair Arnold Clark called the July 13, 2015 Commission meeting to order at 8:34 a.m. Present were Commissioners Arnold Clark, John Norman, and Deborah Whitworth.

AGENDA

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

Executive Director Amy Sneirson reviewed the following changes/requests for change to the agendas:

Five cases have been tabled to the August 10, 2015 Commission Meeting:

- PA13-0332: Kevin Myshrall (West Bethel) v. Oxford County Sheriff's Department (South Paris)
- E13-0352: Robert Hack (Greene) v. Lowe's Home Improvement (Mooresville, NC)
- PA13-0563: Hilary Whitmore (Portland) v. Falmouth Pediatric Dentistry (Falmouth)
- E13-0564: Marico Wilson (Bangor) v. Team Prior, Inc., Domino's Pizza (Bangor)
- H15-0006: Scott Mootrey, and o/b/o Minor (Ellsworth) v. The Housing Foundation (Orono), Straw Way Housing Associates, LP (Bangor), Penquis (Bangor)

Executive Director Amy Sneirson advised that complainants in two cases on the agenda for today seek to withdraw their complaints, which – after a report has been issued – is in the Commission's discretion. Granting the requests for withdrawal will amend the hearing and consent agendas for today.

- Commissioner Whitworth moved, seconded by Commissioner Norman, to allow the complainant to withdraw her complaint in E14-0244, Capen v. R.S.U. 73. 3 in favor | 0 opposed.
- Commissioner Clark moved, seconded by Commissioner Whitworth, to allow the complainant to withdraw her complaint in E14-0025, Herrick v. Fairchild Semiconductor. 3 in favor | 0 opposed.

Commissioner Whitworth moved, seconded by Commissioner Norman, to adopt the Agenda as amended and to accept the Investigator's recommendations in each of the cases on the Consent Agenda. 3 in favor | 0 opposed (see detailed listing on page 6).

MINUTES

Commissioner Norman moved, seconded by Commissioner Whitworth, to adopt the June 1, 2015 Commission Meeting Minutes. 3 in favor | 0 opposed.

QUARTERLY PROGRAM REVIEW

- Inventory Status Report & Resolutions: There were 694 open cases at the end of June, and the average # of days a case was with the Commission at that time was 332 days. The Commission closed 161 cases during the preceding quarter with 54 settlements resulting in over \$342,260 to complainants.
- Training/Education: Commissioners reviewed the quarterly report indicating that staff presented at 15 training sessions and attended 5 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, including supplemental quarterly financial reporting required of quasi-independent agencies pursuant to 5 M.R.S. § 12023, and it was placed in the file.

ADMINISTRATION

Executive Director Amy Sneirson reported that the Biennial Budget for 2016-2017 authorized the Commission to hire a new Investigator position and also to keep our Intake Officer position, which is great news. The position of Office Associate II, formerly occupied by Kimberly Weeks, is currently vacant. The functions of this position are being performed by an individual placed at the Commission through the Workers' Compensation Board's "Return to Work" program and the Commission is waiting for a permission to fill this position utilizing the Return to Work employee.

The Commission has submitted position justification forms, as mandated by the Governor's Office, requesting permission to fill both the Office Associate II and the Investigator positions. The response indicated the Commission should proceed to recruit and identify a candidate for the Investigator position, and then should submit the position justification form requesting permission to hire. The Commission is proceeding with recruitment efforts given this communication.

COMPLIANCE

Commissioners reviewed the compliance report showing no successful conciliations, two (2) unsuccessful conciliations, and seven (9) conciliations in progress. It was placed on file.

Executive Director Amy Sneirson advised that one case in which the Commission signed a conciliation agreement had been fully resolved, with all terms in the agreements completely implemented, and therefore was ready for dismissal.

- Commissioner Whitworth moved, seconded by Commissioner Norman, to dismiss E14-0244 Kline v. Mercer d/b/a Mercer Properties pursuant to 5 M.R.S. §4612(3). 3 in favor | 0 opposed.

INVESTIGATION

New Charges: Commission staff opened 46 new cases in May, and 71 new cases in June.

Administrative Dismissals: The Executive Director administratively dismissed 45 cases in May and 34 cases in June.

Pre-determination Settlements: Since May 18, 2015, 27 cases pending at the Commission were resolved resulting in settlements with total monetary relief in excess of \$350,000 for complainants.

NEW BUSINESS:

The meeting schedule for 2016 Commission meetings has been set.

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

CASES VOTED ON 8:45 A.M.:

E13-0369: Conrod Wilson (Randolph) v. Best Western Plus/GIRI Hotel Management (Augusta). Attorney Robert Kline restated the position of the Respondent. Attorney Max Katler restated the position of the Complainant. Chief Investigator Victoria Ternig restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Respondent Best Western Plus/GIRI Hotel Management discriminated against Complainant Conrod Wilson in the terms and conditions of his employment due to his race, color, national origin/ancestry, age, and sex in violation of the Maine Human Rights Act. 3 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe Respondent Best Western Plus/GIRI Hotel Management retaliated against Complainant Conrad Wilson for engaging in protected activity under the MHRA. 1 in favor | 2 opposed (Clark and Norman opposed); the motion failed. Commissioner Norman moved, seconded by Commissioner Clark, to find **reasonable grounds** to believe Respondent Best Western Plus/GIRI Hotel Management retaliated against Complainant Conrad Wilson for engaging in protected activity under the MHRA. 2 in favor | 1 opposed (Commissioner Whitworth opposed).

E13-0622: Ashley LeBlanc (Brewer) v. DHG Services, LLC (Providence, RI). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe Respondent DHG Services, LLC retaliated against Complainant Ashley LeBlanc in violation of the Maine Human Rights Act and Maine Whistleblowers' Protection Act because he engaged in protected activity. 3 in favor | 0 opposed.

E13-0737: Karen Hood (Lamoine) v. Maine Coast Memorial Hospital (Ellsworth). Karen Hood restated her position as the Complainant. Attorney Richard Moon restated the position of the Respondent. Investigator Michèle Dion restated the facts of the case. Commissioner Norman moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Maine Coast Memorial Hospital discriminated against Karen Hood based upon disability. 3 in favor | 0 opposed. Commissioner Norman moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Maine Coast Memorial Hospital retaliated against Karen Hood based upon protected activity under the MHRA or the WPA. 3 in favor | 0 opposed.

PA14-0029: Fuad Umar (Vassalboro) v. Waterville Women's Care (Waterville). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Waterville Women's Care retaliated against Fuad Umar for engaging in protected activity in violation of the MHRA. 3 in favor | 0 opposed.

E14-0042: Richard Thurston (Auburn) v. C.W. Hayden Co., Inc. (Auburn). Attorney Seth Carey restated the position of the Complainant. Attorney Mark Franco restated the position of the Respondent. Chief Investigator Victoria Ternig restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Respondent C.W. Hayden terminated

Complainant Richard Thurston's employment due to his disability in violation of the Maine Human Rights Act. 3 in favor | 0 opposed.

At 10:11 Chair Clark called for a 5 minute recess.

E14-0085: Terrence Alden (Bridgton) v. Town of Bridgton (Bridgton). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Terrence Alden was subjected to unlawful disability discrimination in employment (denial of reasonable accommodation) by the Town of Bridgton;

E14-0409: Michael Celentano (Hudson, FL) v. State of Maine, Department of Public Safety, Maine Criminal Justice Academy (Augusta). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Complainant Michael A. Celentano was subjected to MHRA retaliation by Respondent State of Maine Department of Public Safety/ Maine Criminal Justice Academy. 3 in favor | 0 opposed.

H15-0007: Mary Johnson individually and o/b/o Minors (Skowhegan) v. Scot Adams and Michael Adams (Skowhegan). Michael Adams restated the position of the Respondents. Complainant was not present. Chief Investigator Victoria Ternig restated the facts of the case. Commissioner Norman moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondents Scot and Michael Adams discriminated against Complainant Mary Johnson individually and on behalf of Minor Children in housing on the basis of familial status by refusing to rent her a dwelling. 3 in favor | 0 opposed. Commissioner Norman moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondents Scot and Michael Adams discriminated against Complainant Mary Johnson and on behalf of Minor Children in housing on the basis of familial status by stating a discriminatory preference in housing. 3 in favor | 0 opposed.

NEW BUSINESS, continued:

Executive Director Amy Sneirson brought to the Commissioners' attention a request to rescind a "no reasonable grounds" finding entered last month in the case of E13-0244 (McClain v. HM Thomas Associates). In that case, the Complainant did not receive timely notice of the Investigator's Report and deadline for submissions due to an address error made by Commission staff. The parties are both aware of the issue and of the necessity to rescind the June vote and to set the case for hearing. Commissioner Whitworth moved, seconded by Commissioner Norman, to rescind the June 2015 "no reasonable grounds" finding in E13-0244 (McClain v. HM Thomas Associate) and to set the case for hearing on the Commission's August 10, 2015 agenda. 3 in favor | 0 opposed.

Executive Director Amy Sneirson updated the Commissioners about the status of the legislation related to Maine Human Rights Act issues. Several bills related to service animals will be studied as part of a cohesive task force set up by LD 872; a Commissioner or his/her designee will be part of that task force. The fate of another study bill – LD 902, regarding parking for persons with disabilities – is less clear. A bill supported by the Commission, LD 1171, would have made confidential medical information in Commission files as well as the identities of minor children and other sensitive information after Commission investigations; the bill passed the Judiciary Committee and passed a floor vote in the House of Representatives but was killed in the Senate, and will not become law.

At the August meeting Commission staff will present to the Commissioners draft changes to the Commission's education and procedural rules.

EXECUTIVE SESSION:

At 10:43 a.m. Commissioner Whitworth moved, seconded by Commissioner Clark, to move 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). 3 in favor | 0 opposed.

At approximately 11:03 a.m. Commissioner Whitworth moved, seconded by Commissioner Norman, to come out of executive session. 3 in favor | 0 opposed.

LITIGATION:

Commissioner Whitworth moved, seconded by Commissioner Norman, that the Commission should litigate the following cases: H14-0626 and -0627, Kelderhouse/Patton v. Megunticook Management & Realty/Weymouth. 3 in favor | 0 opposed.

Commissioner Whitworth moved, seconded by Commissioner Norman, that the Commission should not litigate E12-0403 Ambilia v. Consolidated Container Company. 3 in favor | 0 opposed.

ADJOURNMENT:

There being no further business to come before the Commission, Chair Clark adjourned the meeting the meeting at 11:07 PM .

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.

E13-0322:	Dale Emerson (Lewiston) v. State of Maine, Department of Corrections, Maine State Prison (Augusta/Warren)	NRG
E13-0637:	Deborah Mason (Gray) v. Spring Harbor Hospital (Portland)	NRG
PA13-0638:	Deborah Mason (Gray) v. Cumberland County Jail and Matthew Foss (Portland)	NRG
E13-0643:	Mary Lyons (Sanford) v. Southern Maine Medical Center (Biddeford)	NRG
E13-0695:	James Miller (Saco) v. Famous Dave's BBQ (Scarborough)	NRG
E13-0705:	Julie Ellis-Colbath (Washburn) v. Columbia Forest Products, Inc. (Presque Isle)	NRG
E14-0002:	Hugh Hartman (Saco) v. Rite Aid (Portland)	NRG
E14-0025:	Diane Herrick (Brunswick) v. Fairchild Semiconductor Corporation (South Portland)	NRG
E14-0157:	Salvatore DeMeo (Stetson) v. Unity College (Unity)	NRG
E14-0177:	Edwin Childs (Portland) v. The Millard Group (Lincolnwood, IL)	
E14-0178:	Edwin Childs (Portland) v. Arnold Garza (Saco)	RG
E14-0215:	Raymondo Rezendes (Portland) v. Bob's Discount Furniture, LLC (South Portland)	NRG
E14-0293:	Elizabeth Myers (Spruce Head) v. Genesis d/b/a Windward Gardens (Camden)	NRG
E14-0343:	Eric Thomas (Winslow) v. Pan Am Railways, Inc. (North Billerica, MA)	RG
E14-0427:	Donald Dumais (East Poland) v. Walmart (Auburn)	NRG
E14-0455:	Kevin Grondin (Caribou) v. Virtual Management Solutions (Caribou)	NRG
H15-0022:	Laura Gottshall and Travis Frechette (Portland) v. One Hundred and Ten High Street Associates, LLC, Diane Manning, and Linda Jacobs (Cape Elizabeth)	RG
H15-0074:	Ricky Emery, Marcy Runnells, and o/b/o Minors (Bangor) v. Treeline, Inc. (Lincoln)	NRG
H15-0075:	Ricky Emery, Marcy Runnells, and o/b/o Minors (Bangor) v. Better Living Lands, LLC (Lincoln)	
H15-0114:	Richard Gerrish (Haverhill, MA) v. Schneider Property Management (Portland)	NRG