



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

April 11, 2016

Commission Chair Arnold Clark was absent. Commissioner A. Mavourneen Thompson served as acting Chair for the meeting and called the meeting to order at 8:31 AM. Also present were Commissioners John Norman, Deborah Whitworth, and Theodore Helberg.

AGENDA

Commissioner Thompson called for adoption of the Agenda and Consent Agenda, as amended.

Executive Director Amy Sneirson tabled the following case to the May meeting:

E14-0520: Donna M. Levensalor (Pittsfield) v. Beacon Hospice an Amedisys Co. (Baton Rouge, LA)

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

MINUTES

Commissioner Helberg moved, seconded by Commissioner Whitworth, to adopt the March 14, 2016 Commission Meeting Minutes. 4 in favor | 0 opposed.

ADMINISTRATION

Quarterly reports: Executive Director Amy Sneirson first provided a quarterly report on Commission activities in the third quarter of the state's fiscal year:

- As of the end of March, there were 642 cases pending investigation at the Commission.
- Commission staff attended or presented at three trainings in the quarter.
- Financial expenditures/payments for the third quarter were reported.
- 119 pre-determination cases were closed in the third quarter, including 13 pre-determination settlements.
- The litigation portion of the agenda was deferred for discussion after Commissioners discussed pending/contemplated litigation in Executive Session.

Monthly reports: Executive Director Amy Sneirson next discussed monthly reporting on Commission activities:

- Administration: A personnel report noted that there would be a number of changes in staff positions and organizational structure within the Commission, some of which are already in effect and some of which are forthcoming. With respect to the Field Investigator position, ED Sneirson advised that the Commission hired Stuart Evans as the new Investigator.
- Compliance: Since the last Commission meeting there are three conciliations pending. Since the last meeting there was one unsuccessful conciliation, in E14-0152, Davis v Lighthouse Painting, and there were no successful conciliations or conciliation agreements to report.
- Investigation
 - New Charges: March = 71. February = 41. January = 52.
 - Administrative Dismissals: March = 29 cases. February = 11. January = 14.
 - Pre-determination Settlements: March = 2 (almost \$32,000 in benefits to complainants). February = 10 (almost \$89,000 to complainants). January = 5 (almost \$79,000 to complainants).

New business: ED Sneirson reported that the Review Panel appointed by the Governor had said it was going to issue a report in April but it appears to be extending its deadline by several months to wrap up its report. Also, Commission Counsel Archer Hirsch reported on her report to the Legislature after the completion of a Legislative study group regarding service animals, and how potential legislative proposals might have a negative impact on MHRC program funding due to lack of substantive equivalency with federal law.

At 8:46 AM Commissioner Thompson began the case hearing agenda.

CASES VOTED ON 8:46 A.M.

E14-0120: Anthony Strodel (Portland) v. National Able (Bangor). Anthony Strodel restated his position as the Complainant. Respondent was not present Investigator Angela Tizon restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe National Able discriminated against Anthony Strodel on the basis of disability. 4 in favor | 0 opposed.

E14-0165: Karen Niehoff (Yarmouth) v. Windham Raymond School District RSU #14 (Windham). Neither Complainant nor Respondent was not present. Investigator Angela Tizon restated the facts of the case. Commissioner Helbert moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent Windham Raymond School District RSU #14 retaliated against Complainant Karen Niehoff in retaliation for engaging in protected activity under the Whistleblowers' Protection Act by subjecting her to less favorable terms and conditions of employment including a hostile work environment. 4 in favor | 0 opposed.

E14-0196: Elizabeth M. Withers (Windom) v. Avis Budget Group (Camden). Attorney Kristin Aiello restated the position of the Complainant. Attorney Shiloh Theberge restated the position of the Respondent.

Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Avis Budget Group discriminated against Elizabeth M. Withers in employment due to her disability (failure to provide reasonable accommodation, termination of employment, failure to hire). 4 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Avis Budget Group retaliated against Elizabeth M. Withers in violation of the WPA and/or the MHRA. 4 in favor | 0 opposed.

At 10:00 AM Commissioner Thompson called for an 8.5 minute recess.

E15-0224: Melinda J. Deane (Bucksport) v. Brewer Center for Health & Rehab (Brewer). Complainant was not present. Kevin Haskins restated the position of the Respondent. Investigator Audrey Gillespie restated the facts of the case. Commissioner Helbert moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Brewer Center for Health and Rehabilitation discriminated against Melinda J. Deane on the basis of sex (pregnancy) or disability (pregnancy) by failing to provide a reasonable accommodation. 4 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Brewer Center for Health and Rehabilitation discriminated against Melinda J. Deane on the basis of sex (disability) or disability (pregnancy) when it removed her from the schedule. 4 in favor | 0 opposed.

E14-0603: Douglas Hiserodt (Orrs Island) v. Lakonia Greek Products LLC (Saco). Attorney Kelsey Libby restated the position of the Respondent. Attorney Kristin Aiello restated the position of the Complainant. Investigator Alice Neal restated the facts of the case. Commissioner Helbert moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Lakonia Greek Products LLC discriminated against Douglas C. Hiserodt on the basis of disability by denying a request for a reasonable accommodation. 4 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Lakonia Greek Products LLC discriminated against Douglas C. Hiserodt on the basis of disability by subjecting him to an illegal inquiry in violation of the MHRA. 4 in favor | 0 opposed. Commissioner Norman moved, seconded by Commissioner Helberg, to find that there are **reasonable grounds** to believe that Lakonia Greek Products LLC discriminated against Douglas C. Hiserodt on the basis of disability or perceived disability when it terminated his employment. 4 in favor | 0 opposed.

H15-0528: Gina Fortin (Portland) v. AEG Holdings/ Quang Minh Le (Portland). Neither Complainant nor Respondents were present. Investigator Angela Tizon restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Respondents discriminated against the basis of disability by denying her the use of a service animal. 4 in favor | 0 opposed.

EXECUTIVE SESSION:

At 11:05 AM Commissioner Whitworth moved, seconded by Commissioner Norman, 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). 4 in favor | 0 opposed.

At approximately 11:29 AM Commissioner Norman moved, seconded by Commissioner Helberg, to come out of executive session. 4 in favor | 0 opposed.

LITIGATION:

Commissioner Whitworth moved, seconded by Commissioner Norman, that the Commission should not proceed with litigation in the reasonable-grounds case E14-0345, Thibodeau v Millard Mall Services. 4 in favor | 0 opposed.

At approximately 11:29 AM, Commissioner Whitworth moved, seconded by Commissioner Helberg, to adjourn. 4 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.

E14-0282: Nickey M. Lavallee (Saco) v. Lee Auto Mall (Westbrook)	NRG
PA14-0375: Brandon B. Drewry (Warren) v. State of Maine/Dept. of Corrections/Maine State Prison (Augusta)	NRG
E14-0467: Michael P. Fleischman (Winthrop) v. Lee Auto Mall - Advance Auto (Auburn)	NRG
E14-0601: Kathy Collins (Mars Hill) v. McCain Foods (Easton)	NRG
E14-0653: Shannon L. Landry (Brunswick) v. Break of Day Health Group (Wiscasset)	NRG
E15-0089: Kingsley L. Bilcher (Houlton) v. Hannaford (Portland)	NRG
E15-0313: Timothy A. Mercado-Gatlin (Windsor) v. HS Builders, LLC (Waterville)	RG
H15-0398: Christopher Gistis (Boothbay Harbor) v. Lambros (Diane) (Boothbay Harbor)	NRG
E15-0418: Crystal R. Baker (Milo) v. McLaughlin Timber Trucking (Millinocket) and Jay McLaughlin (Millinocket)	RG
H15-0473: Germon Belvue (Bangor) v. Verrill (Robert)/Bob's Rooming House (Bangor)	NRG
H/E15-0542: Johnathan M. Smith (Waterville) v. BBS Lobster Trap, Inc. (Machiasport)	NRG
H15-0577: Ralph and Leah Mathis (Lamoine) v. Emmaus Center Homeless Shelter (Ellsworth)	NRG