



## 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](http://www.maine.gov/mhrc)

**Amy M. Sneirson**  
EXECUTIVE DIRECTOR

**Barbara Archer Hirsch**  
COMMISSION COUNSEL

### COMMISSION MEETING MINUTES

*19 Union Street ~ Augusta, Maine*

August 8, 2016

Commission Chair Arnold Clark called the meeting to order at 8:31 AM. Present were Commissioners John Norman, Deborah Whitworth, and Theodore Helberg.

#### AGENDA

Commission Chair Clark called for adoption of the Agenda and Consent Agenda, as amended.

- Executive Director Amy Sneirson tabled the following case to the September meeting: H16-0073 (Jamie Merrill and Dwayne Labrecque v. Blue Ridge Properties).
- Executive Director Amy Sneirson also presented a complainant's request to withdraw a complaint, in Case H16-0048 (Holly Carter v Sanford Housing Authority and William Keefer). Commissioner Whitworth, seconded by Commissioner Helberg, moved to deny the complainant's request to withdraw. 4 in favor | 0 opposed.
- Executive Director Amy Sneirson advised the Commissioners that the hearing agenda would take one case out of order, with E14-0555 (Elder v Bath Iron Works) taken last.

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 5).

#### MINUTES

Commissioner Helberg moved, seconded by Commissioner Norman, to adopt the June 27, 2016 Commission Meeting Minutes. 3 in favor | 0 opposed | 1 abstained (Whitworth abstained).

#### ADMINISTRATION

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

- As of the end of June, there were 665 cases pending investigation at the Commission.
- Commission staff attended or presented at 13 trainings in the quarter.
- Financial expenditures/payments for the quarter will be provided by the end of the day.
- Pre-determination settlements were closed in the quarter: 7 in June (with benefits of \$178,000 to complainants) and 9 in July (with benefits of \$70,000 to complainants).
- 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:

- Personnel: The Commission hired two new Field Investigators to start this month, and also will be losing Investigator Audrey Gillespie, who will be leaving on 8/19 to work for the federal government on immigration/refugee matters. The Commission will have to seek permission from the Office of the Governor to advertise/fill the position, as there is a statewide hiring freeze. The Commission always has received permission to hire in past scenarios like this but the Governor's office may say that it is waiting for the Executive Review Panel to complete its report; this report is not complete and is still being drafted. The Commission is still interviewing for a vacation paralegal position. Also, Nicole Auclair joined the Commission's staff in a Paralegal Assistant (front office) position.
- Compliance: Since the last Commission meeting, there are eight reasonable-grounds cases pending in conciliation, and have been five unsuccessful conciliations. There was one successful conciliation, in E14-0063 (Hiserodt v. Lakonia Greek Products).
  - Commissioner Helberg moved, seconded by Commissioner Whitworth, to accept the conciliation agreement in E14-0063 (Hiserodt v. Lakonia Greek Products). 4 in favor | 0 opposed.
- Investigation
  - New Charges: June = 56. July= 31.
  - Administrative Dismissals: June =15. July = 21.

New business: Executive Director Amy Sneirson noted that the new Commissioner appointee, Fred Oettinger, was unanimously approved by the Judiciary Committee and the Senate, and just needs to be sworn in; he will attend the September meeting. Sneirson noted that Oettinger replaces A. Mavourneen Thompson, who wanted to express to the Commission her thanks for the its good work and her time on the Commission.

The Commission took a three-minute break.

At 8:46 AM Commission Chair Clark began the case hearing agenda.

#### **CASES VOTED ON 8:46 A.M.**

E14-0364: Angela Cowger (Danforth) v. Addison Point Agency (Houlton). Respondent did not appear. Commissioner Whitworth moved, seconded by Commissioner Helberg, to find **reasonable grounds** to believe that Respondent Addison Point Agency retaliated against Complainant Angela Cowger in violation of the Whistleblowers' Protection ACT and Maine Human Rights Act by terminating her employment. 4 in favor | 0 opposed.

E14-0365: Julie Ivey (Houlton) v. Addison Point Agency (Houlton). Respondent did not appear. Commissioner Norman moved, seconded by Commissioner Whitworth to find **reasonable grounds** to believe that Respondent Addison Point Agency retaliated against Complainant Julie Ivey in violation of the Whistleblowers' Protection ACT and Maine Human Rights Act by terminating her employment. 4 in favor | 0 opposed.

E14-0677: Deanna Brown (Augusta) v. Maine Center for Disease Control/Public Health. Complainant did not appear. Commissioner Norman moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent State of Maine Center for Disease Control/Public Health Nursing subjected Complainant Deanna Brown to unlawful discrimination based on race or color, or that it subjected her to retaliation for protected conduct in violation of the Whistleblowers' Protection Act and/or the Maine Human Rights Act. 4 in favor | 0 opposed.

PA15-0001/02: Loren Shuck on behalf of Minor (Palermo) v. Erskine Academy/John Clark (South China) and RSU 12/Delia Dearnley (Somerville). Loren Shuck restated his position as the Complainant. Attorney Hannah King restated the position of Respondents RSU 12 and John Clark. Mike McQuarrie, Headmaster of Erskine Academy, restated the position of Respondents Erskine Academy and Delia Dearnley. Investigator Audrey Gillespie restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Helberg, to find no reasonable grounds to believe that Respondents RSU 12 / Delia Dearnley and Respondents Erskine Academy / John Clark discriminated against Complainant Loren Shuck by denying Minor a reasonable modification for his disability; 4 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Helberg, to find no reasonable grounds to believe that Respondent Erskine Academy retaliated against Complainant Loren Shuck on behalf of Minor because he engaged in protected activity. 4 in favor | 0 opposed.

E15-0109: Janet Robertson (Whiting) v. Washington County: One Community (Machias). Janet Robertson restated her position as the Complainant. Attorney Carol Eisenberg restated the position of the Respondent. Investigator Anglea Tizon restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Respondent Washington County: One Community discriminated against Complainant Janet Robertson on the basis of disability by failing to reasonably accommodate her or by discharging her. 4 in favor | 0 opposed.

E15-0182: Babak Soleymanabadi (Westbrook) v. Sears Holdings (South Portland). Babak Soleymanabadi restated his position as the Complainant. Respondent did not appear. Investigator Beauchesne restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Complainant Babak Soleymanabadi was subjected to unlawful race, color, and/or national origin/ancestry discrimination in employment by Respondent Sears Holdings. 4 in favor | 0 opposed. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Complainant Babak Soleymanabadi was subjected to unlawful retaliation in employment for engaging in protected activity by Respondent Sears Holdings. 4 in favor | 0 opposed.

At 10:17 AM Chair Clark called for a 5 minute recess.

E15-0310: Steven J. Memmelaar (Brewer) v. Walmart (Brewer). Complainant did not appear. Commissioner Norman moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Walmart terminated Complainant Steven J. Memmelaar's employment due to his whistleblower activity in violation of the Whistleblowers' Protection Act and Maine Human Rights Act. 4 in favor | 0 opposed.

E15-0546: Elizabeth Schneider (Portland) v. Sunshine Pathways LLC; Sunshine Corporation; and Patrick Thompson. Respondents were not present. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find **reasonable grounds** to believe that Sunshine Pathways LLC, Sunshine Corporation Holdings LLC, and Patrick Thompson unlawfully terminated Elizabeth Schneider's employment in retaliation for protected activity under the Whistleblowers' Protection Act and Maine Human Rights Act. 4 in favor | 0

opposed.

PA15-0558: Timothy Bracey o/b/o minor (Silver Ridge Township) v. Maine Bureau of Motor Vehicles. Assistant Attorney General Kelly Morrell restated the position of the Respondent. Timothy Bracey restated his position as the Complainant. Investigator Robert Beauchesne restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Clark, to find reasonable grounds to believe that Complainant Timothy Bracey was unlawfully discriminated against by Respondent Maine Bureau of Motor Vehicles on the basis of physical and/or mental disability when he was not provided with a reasonable accommodation. 1 in favor | 3 opposed (Helberg, Norman, Whitworth opposed). Commissioner Whitworth moved, seconded by Commissioner Helberg, to find no reasonable grounds to believe that Complainant Timothy Bracey was unlawfully discriminated against by Respondent Maine Bureau of Motor Vehicles on the basis of physical and/or mental disability when he was not provided with a reasonable accommodation. 3 in favor | 1 opposed (Clark opposed).

E15-0594: Robert J. LaPointe (Caribou) v. Gary's Home Appliance & Furniture (Presque Isle). Respondent did not appear. Commissioner Helberg, moved, seconded by Commissioner Whitworth, to find **reasonable grounds** to believe that Respondent Gary's Home Appliance & Furniture discriminated against Complainant Robert J. LaPointe on the basis of age by failing to hire him. 4 in favor | 0 opposed.

H16-0048: Holly Carter (Alfred) v Sanford Housing Authority and William Keefer Nursing (Sanford). In response to a request for a reasonable accommodation by the Complainant, who was unable to attend the meeting in person, Executive Director Amy Sneirson read a written statement restating the position of the Complainant. Attorney Gregg Frame restated the position of the Respondent. Chief Investigator Neal restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Norma, to find no reasonable grounds to believe that Sanford Housing Authority and William Keefer retaliated against Holly Carter in housing for asserting her rights under the Maine Human Rights Act. 4 in favor | 0 opposed.

E14-0555: David W. Elder (Auburn) v. Bath Iron Works (Bath). Attorney Samuel Riotte restated the position of the Complainant. Attorney Jonathan Shapiro restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that David Elder was subjected to unlawful disability discrimination with respect to the terms and conditions of his employment by BIW. 4 in favor | 0 opposed.

#### **EXECUTIVE SESSION:**

At 11:37 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 11:53 AM Commissioner Norman moved, seconded by Commissioner Helberg, to come out of executive session. 4 in favor | 0 opposed.

#### **LITIGATION:**

Commissioner Norman moved, seconded by Commissioner Whitworth, that the Commission should not proceed with litigation in the following reasonable-grounds cases:

- E14-0306, Sensale-Guerin v. Synergent.

- E14-0486, McKinnon v. North Country Variety, Inc.
- PA15-0132, Stanhope v. Skywalker's Pub & Grille.
- E15-0313, Mercado Gatlin v. HS Builders.
- E15-0418, Baker v. McLaughlin Timber Trucking and Jay McLaughlin.

At approximately 11:55 AM, Commissioner Chair Clark adjourned the meeting.

## 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.

E14-0377	Mark Wilson (York Beach) v. York Hospital (York)	NRG
E14-0388	Elizabeth Smith (Portland, ME) v. Gannett Co., Inc. d/b/a WCSH-TV (McLean, VA)	NRG
E14-0663/64	Melanie Rounds (Portland, ME) v. ASR International Corporation (Hauppauge, NY) and State of Maine, Dept. of Defense and Veteran Services, Maine Army National Guard (Augusta, ME)	NRG
E14-0692	Lisa Seavey f/k/a Hinerman (South Portland) v. Complete Labor & Staffing (Portland)	NRG
E15-0020/21	Vincent J. Ceccola (Rockland) v. Fisher Engineering (Rockland) & Kelly Services (Troy, MI)	NRG
E15-0136	Wendy A. Bertrand (Greenwood) v. Geoffrey Reynolds (Bryant Pond)	NRG
E15-0180/81	Raymondo Rezendes (Portland) v. Labor Ready Northeast, Inc. (Portland) and Joe Toppi (Portland)	NRG
E15-0186	William DeSchamps (S. Portland) v. Parker Hannifin, Nichols Portland Division (Portland)	NRG
E15-0423	Stephanie Kelley (Connor Twp) v. MSAD 24 (Van Buren)	NRG
E15-0464	Pamela Dalphonse (Scarborough) v. New England Rehab Hospital/Healthsouth (Portland)	NRG