



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

Senator Inn - Boardroom

19 Union Street ~ Augusta, Maine

October 16, 2017

Commissioner Whitworth chaired the meeting, as Commission Chair Arnold Clark was not present. The meeting was called to order at 8:30 AM. Present were Commissioners Deborah Whitworth, John Norman, and Fred Oettinger.

AGENDA:

Commissioner Oettinger moved, seconded by Commissioner Norman, to adopt the Agenda and to accept the Investigator's recommended decision in each of the cases listed on the Consent Agenda (see listing on page 3). 3 in favor | 0 opposed.

MINUTES:

Commissioner Norman moved, seconded by Commissioner Oettinger, to adopt the September 18, 2017 Commission meeting minutes. 3 in favor | 0 opposed.

ADMINISTRATION:

Monthly reports: Executive Director Sneirson discussed reporting on Commission activities from September:

- Personnel: No new activity, other than that the Commission received 14 Applications for MHR Investigator position; the posting has been extended to allow for more applicants.
- Compliance: Since the last meeting, there was one unsuccessful conciliation and no successful conciliations; there are three cases in active conciliation.
- Investigations in September 2017:
 - New Charges: 57 new charges filed.
 - Administrative Dismissals: 23 administrative dismissals.
 - There were 6 predetermination settlements with benefits of \$54,000 to complainants.
- Litigation: Commissioners decided to address this after Executive Session.

New business:

- Executive Director Amy Sneirson informed the Commissioners that the agency's FY2017 annual report soon would be submitted to the Governor and Legislature, and that the report would note many interesting data points including the following:
 - Increase of 12.5% in number of complaints filed/year (687 in FY2017, 611 in FY2016).
 - Disability discrimination alleged in 28.4% of complaints filed (versus 25.2% in FY2016), retaliation alleged in 26.8% of complaints filed (19.1% in FY2016), and race/color/national origin/ancestry alleged in 10.8% of complaints filed (9.6% in FY2016). Whistleblower retaliation alleged in 9.5% of complaints filed (18.9% in FY2016).

- Of 228 cases with investigator's reports in FY2017, 70.6% were not contested afterward.
- Commissioners found reasonable grounds to believe discrimination occurred in 31 of the 228 cases (13.6%) they decided after investigators' reports; the RG rate was 11.2% in FY2016.
- Due to increased complaint filings and staff turnover/vacancies, 10.4% increase in cases pending at end of fiscal year over last year.
- Executive Director Sneirson also informed the Commission that there was a request for reconsideration submitted in Commission Case #E15-0408, *Dubois v University of Maine System*, which was decided at the Commission's September 18 meeting. The Commissioners indicated that they would address the request after the Commission's Executive Session.

The Commission took an eight-minute break at 8:37 AM.

At 8:45 AM Commissioner Whitworth called the case hearing agenda to order.

CASES VOTED ON:

E15-0449: *Jennifer Bagley (Newport) v. Sebecook Family Doctors (Newport)*. Attorney Robert Bower restated the position of the Respondent. Attorney John Gause restated the position of the Complainant. Investigator Corey restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Norman to find no reasonable grounds to believe that Respondent Sebecook Family Doctors subjected Complainant Jennifer Bagley to unlawful disability discrimination in the terms and conditions of employment when it forced her to take unpaid leave. 2 in favor | 1 opposed (Oettinger opposed). Commissioner Oettinger moved to find reasonable grounds to believe that Respondent Sebecook Family Doctors subjected Complainant Jennifer Bagley to unlawful disability discrimination in the terms and conditions of employment when it required her to take an unlawful medical examination; the motion was not seconded and did not pass. Commissioner Norman moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Sebecook Family Doctors subjected Complainant Jennifer Bagley to unlawful disability discrimination in the terms and conditions of employment when it required her to take an unlawful medical examination. 2 in favor | 1 opposed (Oettinger opposed). Commissioner Norman moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Sebecook Family Doctors subjected Complainant Jennifer Bagley to unlawful disability discrimination when it constructively discharged her. 2 in favor | 1 opposed (Oettinger opposed).

E15-0470: *Linda A. Lunt (Bar Harbor) v. Sonogee Rehab & Living Center (Bar Harbor) & Robert Childs (Bar Harbor)*. Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Complainant Linda A. Lunt was subjected to unlawful retaliation for protected WPA or MHRA activity by respondents Sonogee Rehab & Living Center & Robert Childs. 3 in favor | 0 opposed.

E16-0145: *Lloyd Mudie (Madison) v. Dollar Tree (Skowhegan)*. Attorney Eric Uhl restated the position of the Respondent. Attorney Lisa Butler restated the position of the Complainant. Investigator Fortin restated the facts of the case. Commissioner Norman moved, seconded by Commissioner Oettinger, to find **reasonable grounds** to believe that Dollar Tree discriminated against Lloyd Mudie on the basis of disability by failing to provide him with reasonable accommodations for his disability and to find **reasonable grounds** to believe that Dollar Tree discriminated against Lloyd Mudie on the basis of disability by subjecting him to less favorable terms and conditions of employment. 3 in favor | 0 opposed.

At 10:05 AM, Commissioner Whitworth called for a 5 minute recess.

EXECUTIVE SESSION:

At 10:10 AM, Commissioner Norman moved, seconded by Commissioner Oettinger, to go 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 10:24 PM, Commissioner Norman moved, seconded by Commissioner Oettinger, to come out of executive session. 3 in favor | 0 opposed.

BUSINESS SESSION, CONT.:

New business, continued:

- Commissioner Norman moved, seconded by Commissioner Oettinger not to reconsider case E15-0418: Duboise V. University of Maine System. 3 in favor | 0 opposed.

Litigation:

- Commissioner Norman moved, seconded by Commissioner Oettinger, that the Commission should not proceed with litigation in the reasonable-grounds case #PA15-0216, Danny Dalton v. Maine Medical Center. 3 in favor | 0 opposed.

At 10:26 AM Commissioner Norman moved, seconded by Commissioner Oettinger to adjourn the meeting. 3 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.

E15-0475:	James L. Dyar (Old Orchard Beach) v. Comfort Inn, LLC (South Portland)	NRG
E15-0553:	Jeanne E. Feder (Norway) v. MSAD 17, Oxford Hills School District (South Paris)	NRG
E15-0587:	Matthew B. Kenney (Bangor) v. Unifirst (Bangor)	NRG
E16-0043:	Wendy L. Scott (Millinocket) v. Colonial Healthcare (Lincoln)	NRG
PA16-0074:	Malcolm B. Davidson, Jr. (Warren) v. Charleston Correctional Facility (Augusta)	NRG
E16-0090:	Robert J. LaPointe (Caribou) v. Plourde Furniture (Caribou)	NRG
E16-0234:	Robard Abraham (Trenton) v. Narraguagus Bay Health Care Facility (Milbridge)	NRG
E16-0356:	Roger A. Whitney (Corinna) v. RSU #19 (Newport)	NRG
H17-0237:	William Parlin & Patricia Belanger, individually and on behalf of Minor Child (Westbrook) v. Merganser Development, LLC (Portland)	NRG
H17-0258:	Jonathan Storman & Meghann Clark (Medway) v. Mountain View Investments (East Millinocket)	NRG