



Maine Human Rights Commission

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COMMISSION MEETING MINUTES

Senator Inn - Boardroom

19 Union Street ~ Augusta, Maine

May 21, 2018

Commission Chair Arnold Clark called the meeting to order at 8:30 AM. Present were Commissioners Arnold Clark, Fred Oettinger, Deborah Whitworth, and John Norman.

AGENDA

Commissioner Whitworth moved, seconded by Commissioner Norman, to adopt the Agenda as amended and to accept the Investigator's recommended decision in each of the cases listed on the Consent Agenda (see listing on page 3). 4 in favor | 0 opposed.

MINUTES

Commissioner Oettinger moved, seconded by Commissioner Norman, to adopt the April 23, 2018 Commission meeting minutes. 4 in favor | 0 opposed.

ADMINISTRATION

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

- Personnel: The Commission has a field investigator position that was vacant as of March 28, 2018, and sought approval at that time from the Office of the Governor to begin the hiring process to fill the vacancy. The request for approval remains pending. .
- Compliance:
 - Since the last meeting, there were three unsuccessful conciliations and no successful conciliations. Two reasonable-grounds cases remain in active conciliation.
 - There are two reasonable-grounds cases which have been resolved by agreement at or after conciliation. Commissioner Whitworth moved, seconded by Commissioner Norman, to approve the conciliation agreements in Thomas v Cafua Management d/b/a Dunkin Donuts (PA16-0011) and Young v American Income Life (E15-0568). 4 in favor | 0 opposed.
- New Charges: 52 new charges were filed in April.
- Administrative Dismissals: 10 cases were administratively dismissed in April.
- In April, there were 16 predetermination settlements with benefits in excess of \$363,000 to complainants.

NEW BUSINESS

- Executive Director Sneirson presented to the Commissioners two requests to reopen cases for investigation.
 - Commissioner Whitworth moved, seconded by Commissioner Norman, to decline reconsideration of McArdle v Cafe Dry Dock Inn (PA17-0362). 4 in favor | 0 opposed.

- Commissioner Oettinger moved, seconded by Commissioner Norman to decline reconsideration of *Mayes v. CMMC* (E16-0110) . 4 in favor | 0 opposed.
- Executive Director Sneirson introduced to the Commissioners our summer intern from the University of Maine School of Law, Ron Dreher.

At 8:45 AM Commission Chair Arnold Clark began the case hearing agenda.

CASES VOTED ON

E16-0176: Violet Guertin (Sebago) v. Goodwill of Northern N.E. (Windham). Violet Guertin restated her position as the Complainant. Attorney Rick Finberg restated the position of the Respondent. Chief Investigator Alice Neal restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Oettinger, to find no reasonable grounds to believe that Goodwill of Northern N.E. discriminated against Violet M. Guertin on the basis of disability (reasonable accommodations, discharge). 4 in favor | 0 opposed.

E16-0204: Staci O’Leary (Gray) v. Maine Department of Public Safety (Augusta). Attorney Maria Fox restated the position of the Complainant. Assistant Attorney General Kelly Morrell restated the position of the Respondent. Investigator Stuart Evans restated the facts of the case. Commissioner Norman moved, seconded by Commissioner Oettinger to find **reasonable grounds** to believe that the Maine Department of Public Safety subjected Staci O’Leary to a hostile work environment on the basis of her sex. 3 in favor | 1 opposed (Whitworth opposed). Commissioner Norman moved, seconded by Commissioner Oettinger, to find reasonable grounds to believe that the Maine Department of Public Safety unlawfully retaliated against Staci O’Leary in violation of the MHRA and/or WPA. 2 in favor | 2 opposed (Whitworth & Clark opposed); the motion did not pass. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that the Maine Department of Public Safety unlawfully retaliated against Staci O’Leary in violation of the MHRA and/or WPA. 2 in favor | 2 opposed (Norman & Oettinger opposed); the motion did not pass. The default finding was no reasonable grounds to believe unlawful MHRA/WPA retaliation occurred. .

E16-0303: Marshall F. Archer (Saco) v. Veterans Inc. (Worcester, MA). Attorney Peter Lowe restated the position of the Respondent. Attorney William Gallitto restated the position of the Complainant. Chief Investigator Alice Neal restated the facts of the case. Commissioner Clark moved, seconded by Commissioner Whitworth, to send the case back for further investigation. 3 in favor | 1 opposed (Norman opposed).

At 11:00 Chair Clark called for 5 minute recess.

E16-0457: Richard J. Hawkins (Gray) v. O’Reilly Auto Parts - Corp. Office (Springfield, MO) & O’Reilly Auto A + B Parts - Store (Yarmouth). Attorney Christopher C. Taintor restated the position of the Respondents. Complainant Richard Hawkins restated his position as the Complainant. Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Oettinger, to find **reasonable grounds** to believe that Respondents O’Reilly Auto Parts - Store, and Respondent O’Reilly Auto Parts - Corp office discriminated against Richard J. Hawkins on the basis of religion when they denied him a reasonable accommodation and **reasonable grounds** to believe that Respondents O’Reilly Auto Parts - Store, and Respondent O’Reilly Auto Parts - Corp office discriminated against Richard J. Hawkins on the basis of religion when they discharged him from employment. 4 in favor | 0 opposed.

E17-0202: Michael A. Hickson (Kennebunk) v. RSU 21 (Kennebunk). Complainant was not present. Commissioner Clark moved, seconded by Commissioner Oettinger, to find no reasonable grounds to believe that RSU 21 discriminated against Michael Hickson based on age or sex (discharge) or that RSU retaliated against Michael Hickson for engaging in WPA-protected conduct. 4 in favor | 0 opposed.

EXECUTIVE SESSION

At 11:30 AM, Commissioner Whitworth 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). 4 in favor | 0 opposed.

At approximately 11:55 PM, Commissioner Oettinger moved, seconded by Commissioner Whitworth, to come out of executive session. 4 in favor | 0 opposed.

LITIGATION

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

- Thomas v. Cafua Management d/b/a Dunkin Donuts (PA16-0011),
- Greene o/b/o minor child v. Friends School (EDU16-0274),
- Lakin v Paine Products, Inc. (E16-0053),
- Frasier v Paine Products, Inc. (E16-0054),
- Young v American Income Life (E15-0568), and
- Leanne Nelson v. Argo Marketing Group (523-2016-00688)

4 in favor | 0 opposed.

At approximately 11:58 PM, Commissioner Clark adjourned the meeting.

TABLED

- E16-0181* Helen Crabtree (Auburn) v. Central Maine Med. Center and Maine College of Health Prof.(Lewiston)
- E16-0222 Deborah B. Chapman (Penobscot) v. Community Childhood Learning Place (Castine)
- E16-0369 William A. Hale (Norridgewock) v. Vestas American Wind Tech (Eustis)

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.

- E16-0215: Jae Duran (Dallas, TX) v. Great Falls Marketing (South Portland) & Deanna Jackson (South Portland)NRG
- E16-0250: Kenneth Ingalls (Sullivan) v. Time Warner Cable Services, LLC NRG
- E16-0270: Julie A. Hufnagel (Springvale) v. Fresenius Medical (Portland) NRG
- E16-0346: Cassandra L. Schmidt (Auburn) v. Allen & Coles Moving Systems (Portland) NRG
- PA16-0359: Thelma J. Gullatt-Young (South Portland) v. Maine Medical Partners Neurosurgery and Spine NRG
(Scarborough), Dr. Douglas Buxton (Scarborough), & Staff (Scarborough)
- E16-0407: Michael Dupray (Old Town) v. Cross Insurance Center (Bangor) NRG
- E17-0081: Deborah M. Bachand (Rome) v. MaineGeneral Health/Spruce St. Res.Program for Women(Augusta) NRG
- E17-0174: Daniel S. Adams (Lewiston) v. MSAD 15 (Gray) NRG