

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

284 Western Ave ~ Augusta, Maine 04330

September 23, 2019

Commission Chair Clark chaired the meeting and called it to order at 8:30 AM. Also present were Commissioners Whitworth, Helberg and Ashby.

AGENDA

Commissioner Helberg moved, seconded by Commissioner Whitworth, 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 4). 4 in favor | 0 opposed.

MINUTES

Commissioner Whitworth moved, seconded by Commissioner Ashby, to adopt the August 26, 2019 Commission meeting minutes. 4 in favor | 0 opposed.

ADMINISTRATION

Monthly reports: Executive Director Sneirson discussed reporting on Commission activities from August 2019 :

- Personnel: Field Investigator Jenn Corey Meehan has handed in her two-week notice, with today being her last day. The position already has been advertised as an anticipated vacancy. The new position received in the Governor's biennial budget, which was an investigator position, has been reclassified to a Senior Investigator position; Paralegal Carrie McCarter has been hired into that newly-created Senior Paralegal position. Anticipating her vacating her Paralegal position, we advertised the position; we received only two applications and left the advertisement open for another 10 days.
- Compliance: Since the last meeting, there were 3 unsuccessful conciliations and no successful conciliation. Four reasonable-grounds cases remain in active conciliation.
- With respect to conciliation agreements that have been fully implemented, Commissioner Helberg moved, seconded by Commissioner Ashby, to dismiss the following cases:
 - H17-0240-A: Tennyson Martin v. J.G.Q. Property Management, Inc. and Joe Quinn;
 - H17-0074-A: Amelia Harmon v. Jo-Anne Connolly;
 - H17-0501: Roberta Dalton v. Sharon Knapp; and

- H18-0496-ABC: Terry Asselin v. MPB Properties, Leonard Colello, and Burnham Towers LLC.

4 in favor | 0 opposed.

- New Charges: The Commission received 48 new complaints filed in August.
- Administrative Dismissals: There will no longer be administrative dismissals upon which the Commission needs to vote, given the MHRA amendment authorizing the Executive Director to issue those dismissals effective September 19. Going forward, the Commissioners will receive reports at each meeting on cases administratively dismissed in the prior month.
- Settlements: in August there were 22 predetermination settlement agreements totaling \$459,000 in benefits to complainants.

NEW BUSINESS

Executive Director Sneirson reviewed changes in the Maine Human Rights Act that became effective as of September 19, 2019 due to enactment of LDs 1701 and 1702, and reported on the one Commission agency bill that remains on the Governor's desk (LD 1703). E.D. Sneirson also reported that the Commission issued a call for mediators to add to the existing roster of our mediation program.

At 8:42 AM the Commission took a brief break.

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

CASES VOTED ON

E18-0017*: Bernard Kellish (Bangor) v. Shade Doctor of Maine (Brewer). Timothy Carpenter restated his position as owner of the Respondent. Complainant was not present. Investigator Kit Thomson Crossman reviewed their report and recommended findings. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find there are no reasonable grounds to believe that Respondent Shade Doctor of Maine retaliated against Complainant Bernard Kellish for engaging in WPA-protected activity. 4 in favor | 0 opposed.

E18-0283-A/B: Muzafar Yahyia (South Portland) v. Hannaford Bros. (Scarborough) and Delhaize America Distribution, LLC (Salisbury, NC). Muzafar Yahyia restated his position as the Complainant. Attorney Timothy O'Brien restated the position of the Respondent. Investigator Kit Thomson Crossman reviewed their report and recommended findings. Commissioner Helberg moved, seconded by Commissioner Ashby, to find there are no reasonable grounds to believe that Hannaford Bros. or Delhaize America Distribution, LLC discriminated against Muzafar Yahyia in employment on the basis of national origin, race or color and no reasonable grounds to believe that Hannaford Bros. or Delhaize America Distribution, LLC retaliated against Muzafar Yahyia for engaging in MHRA-protected activity. 4 in favor | 0 opposed.

E18-0313*: Dawn Carey (Bangor) v. Avis Budget Group (Bangor). Dawn Carey and Travis Carey restated the position of the Complainant. Attorney Melinda Catherine restated the position of the Respondent. Investigator Jane O'Reilly reviewed her report and recommendations. Commissioner Helberg moved, seconded by Commissioner Ashby, to find there are no reasonable grounds to believe that Avis Budget Group discriminated against Dawn Carey in employment on the basis of religion and **reasonable grounds**

to believe that Avis Budget Group discriminated against Dawn Carey in employment on the basis of age. 4 in favor | 0 opposed.

At 10:10 Chair Clark called for a break.

E18-0392-A&B*: Taryn Gourdouros (Biddeford) v. Chessie Girl, Inc. d.b.a. Merry Maids of Maine (Scarborough) & Merry Maids (Memphis, TN). Attorney James Spaulding restated the position of the Respondent Chessie Girl, Inc. d.b.a. Merry Maids of Maine. Attorney Lisa Butler restated the position of the Complainant. Chief Investigator Alice Neal reviewed their report and recommendations. Commissioner Ashby moved, seconded by Commissioner Helberg, to find there are **reasonable grounds** to believe that Chessie Girl d.b.a. Merry Maids of Maine retaliated against Taryn Gourdouros in violation of the WPA when it discharged her from her employment and no reasonable grounds to believe that Merry Maids retaliated against Taryn Gourdouros in violation of the WPA. 4 in favor | 0 opposed.

E18-0370: Margaret A. Nugent (Vinalhaven) v. State of Maine/Maine State Ferry Service (Rockland). Margaret A. Nugent restated her position as the Complainant. Attorney Kelly Morrell restated the position of the Respondent. Investigator Robert Beauchesne reviewed his report and recommendations. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that the State of Maine/Maine State Ferry Service discriminated against Margaret A. Nugent based on age or sex and no reasonable grounds to believe that the State of Maine/Maine State Ferry Service retaliated against Margaret A. Nugent for engaging in WPA- and/or MHRA-protected conduct. 4 in favor | 0 opposed.

E19-0017*: Jack Westfall (Limestone) v. Dollar General (Limestone). Attorney Amy Parsons appeared for Respondent, requested that the investigation be reopened, and stated that there was no due process defect related to the Respondent's notice. Complainant was not present. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find **reasonable grounds** to believe that Dollar General retaliated against Jack Westfall in violation of the WPA. 4 in favor | 0 opposed.

E19-0052: Shawn Wilcox (Fort Fairfield) v. Huber Engineered Woods (Easton). The Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Helberg, to find No Reasonable Grounds to believe that Huber Engineered Woods discriminated against Shawn Wilcox based on sex. 3 in favor | 0 opposed | 1 Abstained (Ashby abstained).

EXECUTIVE SESSION

At 11:18 AM, Commissioner Ashby moved, seconded by Commissioner Helberg, 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 11:25 AM, Commissioner Helberg moved, seconded by Commissioner Whitworth, to come out of executive session. 4 in favor | 0 opposed.

Commissioner Ashby moved, seconded by Commissioner Helberg, to do the following:

- a. To not litigate *Comeau v. CVS Health* (E17-0246-A), a reasonable-grounds case in which conciliation was not successful; and

- b. To dismiss the reasonable-grounds case *Thomas v. Cafua Mgmt dba Dunkin Donuts* (PA16-0011), as the post-conciliation settlement agreement resolving the case had been fully implemented.
4 in favor | 0 opposed.

At approximately 11:27 AM, 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.

E18-0100:	Brent M. Cassidy (Houlton) v. Tate & Lyle PLC (Houlton)	NRG
E18-0185:	Melissa Goodman (Gorham) v. Intermed (Portland)	NRG
E18-0191:	Cassandra Young (Powell, WY) v. Starbucks (Topsham)	NRG
E18-0192:	James Miller (Saco) v. Krispy Kreme (Saco)	NRG
E18-0239:	Gordon Collins (Limerick) v. Advance Auto Parts (Roanoke, VA)	NRG
E18-0318:	Eric Webster (New Sharon) v. Bath Iron Works Corporation (Bath)	NRG
E18-0322:	Michael Cahill (South Portland) v. City of South Portland (South Portland)	NRG
E18-0405:	Jayne Varney (Belgrade) v. Kennebec Savings Bank (Augusta)	NRG
H19-0169:	Amy Knight (Sanford) v. Troy Pomerleau (North Berwick), Bob Vallier (Sanford), and A, B, C Jen Pomerleau (North Berwick)	NRG
HPA19-0179:	Michele Gagne (Warren) v. Maine Behavioral Health (Damariscotta)	NRG
A		

TABLED

- PA18-0009*: Esther O'Brien-Nolin (Livermore Falls) v. Vincent Herzog, DO (Scarborough)
E18-0092*: Gary Crouse on behalf of Dameon Crouse (Augusta) v. Walmart Stores, Inc.; Walmart Stores East L.P.;
Walmart Supercenter (Bangor)
PA18-0167*: Judith Estee (Orland) v. Lethabo (Orland)