



## Maine Human Rights Commission

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EXECUTIVE DIRECTOR

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COMMISSION COUNSEL

### COMMISSION MEETING MINUTES

#### Senator Inn - BOARDROOM

284 Western Ave ~ Augusta, Maine 04330

October 21, 2019

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

#### AGENDA

Commissioner Whitworth moved, seconded by Commissioner Helberg, 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 Ashby moved, seconded by Commissioner Helberg, to adopt the September 23, 2019 Commission meeting minutes. 4 in favor | 0 opposed.

#### ADMINISTRATION

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

- Personnel: The Commission is currently interviewing candidates for the vacant Field Investigator position. The new Senior Paralegal position has been filled, and the Commission has hired a new person to fill the vacant Paralegal position; that person will begin at the Commission on 11/4. The Commission also has added two mediators to its Third Party Neutral Mediation Program roster.
- Compliance: Since the last meeting, there were no unsuccessful conciliations and two successful conciliation. Five reasonable-grounds cases remain in active conciliation.
  - Commissioner Helberg moved, seconded by Commissioner Ashby, to approve Conciliation Agreements in the following cases:
    - E18-0084-A/B: Sarah Whyngaught v. Creative Wood Products of Maine Inc. and Michael Deschenes; and
    - H19-0071-A/B/C/D: Gregory Shaw v. Genesis Health Care, Inc. et al.
- 4 in favor | 0 opposed.
- New Charges: 67 new charges filed in September.
- Administrative Dismissals: 23 administrative dismissals in September.
- There were 18 predetermination settlements in September with benefits of \$270,000 to complainants.

Quarterly: Executive Director Sneirson discussed FY2020's first quarter agency performance:

- Training & Education: Commission staff attended/presented at 12 trainings/presentations.
- Financial Report: Presented and placed on file.

- Pending inventory: At the end of the quarter on 9/30, the Commission had 681 cases pending, with the average age of cases in the agency at 234 days; cases are with investigators for an average of 155 days after initial processing.

## NEW BUSINESS

Executive Director Sneirson reported the following:

- The Governor's Offices has not made an appointment for the Commissioner seat held by Fred Oettinger, whose term has expired.
- The Commission did not submit any proposed legislation for the upcoming session. One of MHRC's bills from the past legislative session remains under consideration at the Office of the Governor, and there are other bills related to the MHRA to be considered.
- The December Maine Human Rights Commission CLE has been approved by the Board of Bar Examiners and will be advertised to attorneys soon; this is one part of the inaugural statewide Human Rights Summit planned for 12/10 in Augusta.
- Litigation will be addressed after Executive Session.

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

## CASES VOTED ON

PA18-0009\*: Esther O'Brien-Nolin (Livermore Falls) v. Vincent Herzog, DO (Scarborough). Attorney Christopher Taintor restated the position of the Respondent. Attorney Samuel Riotte restated the position of the Complainant. Investigator Kit Thomson Crossman presented their recommendations and answered questions from Commissioners. Commissioner Ashby moved, seconded by Commissioner Helberg, to find there are **Reasonable Grounds** to believe that Vincent Herzog, DO discriminated against Esther O'Brien-Nolin on the basis of disability. 4 in favor | 0 opposed.

E18-0124: Jennifer Madore (Lewiston) v. Cyr Chiropractic Center (Auburn). Complainant was not present. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find there are No Reasonable Grounds to believe that Cyr Chiropractic Center discriminated against Jennifer Madore on the basis of sex or disability/perceived disability by discharging her. 4 in favor | 0 opposed.

E18-0149: Sarah Graham (Portland) v. Plantwerks (Salisbury, MA). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Ashby, to find there are No Reasonable Grounds to believe that Plantwerks discriminated against Sarah Graham on the basis of sex and/or disability and No Reasonable Grounds to believe that Plantwerks retaliated against Sarah Graham for engaging in WPA- or MHRA-protected activity. 4 in favor | 0 opposed.

E18-0193: Nancy McEwan (Brewer) v. John Tozer (Portland). Complainant was not present. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find No Reasonable Grounds to believe that John Tozer retaliated against Complainant Nancy McEwan for engaging in protected activity. 4 in favor | 0 opposed.

PA18-0216-A: Linna Kuo (Kittery) v. Kittery Police Department (Kittery). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Ashby, to find No Reasonable Grounds to believe that the Kittery Police Department discriminated against Linna Kuo on the basis of her race and/or sex

and No Reasonable Grounds to believe that the Kittery Police Department retaliated against Linna Kuo for engaging in MHRA-protected activity. 4 in favor | 0 opposed.

E18-0346\*: Cynthia Lambert (Norridgewock) v. Town of Norridgewock (Norridgewock). Attorney Frederick Costlow restated the position of the Respondent. Barbara Lelli restated the position of the Complainant. Investigator Jane O'Reilly presented her recommendations and answered questions from Commissioners. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find No Reasonable Grounds to believe that the Town of Norridgewock retaliated against Cynthia Lambert for engaging in MHRA-protected activity. 4 in favor | 0 opposed. Commissioner Helberg moved, seconded by Commissioner Ashby, to find **Reasonable Grounds** to believe that the Town of Norridgewock discriminated against Cynthia Lambert on the basis of disability. 4 in favor | 0 opposed.

## EXECUTIVE SESSION

At 10:25 AM, Commissioner Helberg moved, seconded by Commissioner Whitworth, 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 10:48 PM, Commissioner Whitworth moved, seconded by Commissioner Helberg, to come out of executive session. 4 in favor | 0 opposed.

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

(a) To not litigate the following reasonable-grounds cases in which conciliation was not successful:

- Kerry Varney v. Oldcastle Lawn & Garden (523-2018-00876)
- Katherine Perron v. Oldcastle Lawn & Garden (523-2018-01334)

AND

(b) To litigate the reasonable-grounds case Patricia Kalar (Guardian) and OBO Son (Ward) v. Maine State Housing Authority (H18-0466).

4 in favor | 0 opposed.

At approximately 10:50 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.

<b>E18-0029*:</b>	Brian Richardson (Bridgton) v. Williams Scotsman, Inc. (Auburn)	<b>RG</b>
E18-0164:	Matthew Harris (Arundel, ME) v. Rite Aid Corp. (Camp Hill, PA)	NRG
E18-0276:	Queen F. Bawamioton (Portland) v. Seventy Five State Street (Portland)	NRG
E18-0277:	James D. Bishop (Lewiston) v. Bates College (Lewiston)	
	NRG	
E18-0339AB:	Michael Zeigler (Saco) v. Cafua Man. Company (Metheun, MA); and George Donuts, LLC (Saco)	NRG
E18-0373:	Michael St. Pierre (Randolph) v. Coastal Auto Parts (Ellsworth)	
	NRG	
E18-0406:	Rebecca Churchill (Newport) v. Penobscot Community Health Center (Bangor)	
	NRG	
<b>PA18-0433*:</b>	<b>Eric B. Schnitzer (Lewiston) v. Dunkin Doughnuts (Lewiston)</b>	<b>RG</b>
ED/PA18-0502:	Christin Elwell and o/b/o Minor Child (Bath) v. RSU 1 (Bath); and Tom Maines (Bath)	NRG
A,B		
E19-0050:	Randy O'Leary (Bradley) v. University of Maine System (Orono)	NRG
H/PA19-0228:	Bonney Buzzell Hutchins (Fairfield) v. Kennebec Behavioral Health (Aug.) & KMHA Real Estate	NRG
A,B	Inc. (China Village)	

## TABLED

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)	
E18-0416	Jennifer Belanger (Augusta) v. Department of Health and Human Services (Augusta)	