



Maine Human Rights Commission

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COMMISSION MEETING MINUTES Senator Inn - BOARDROOM 284 Western Ave ~ Augusta, Maine 04330

April 8, 2019

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

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 6). 5 in favor | 0 opposed.

MINUTES

Commissioner Whitworth moved, seconded by Commissioner Oettinger, to adopt the January 28, 2019 Commission meeting minutes. 5 in favor | 0 opposed.

ADMINISTRATION

Monthly reports: Executive Director Sneirson discussed reporting on Commission activities from January through March 2019:

- Personnel: Since the Commission's last meeting in January, the Commission had been an investigator position vacated by Joseph Hensley; while doing so, Kathryn Hutchison resigned her investigator position as well. The two vacant investigator positions have been filled by Kit Thomson Crossman and Ron Dreher. Kit joined the Commission on March 28, 2019; Ron Dreher will begin in May, when his internship with the Commission is complete.
- Compliance: Since the last meeting, there were five unsuccessful conciliations and two successful conciliation. Four reasonable-grounds cases remain in active conciliation.
 - Commissioner Whitworth moved, seconded by Commissioner Norman, to approve the conciliation agreements in *Deveau v. Bureau of Motor Vehicles* (PA17-0239) and *Boerner v. Bureau of Motor Vehicles* (PA16-0537). 5 in favor | 0 opposed.
 - Commissioner Helberg moved, seconded by Commissioner Oettinger, to dismiss the conciliated case *Norwood v. Bangor Housing Authority* (H/PA18-0049), as the conciliation agreement has been fully implemented. 5 in favor | 0 opposed.
- Investigation

- o New Charges: 66 new complaints filed in January, 69 new complaints filed in February, and 66 new complaints filed in March.
- o Administrative Dismissals:
 - There are 16 administrative determinations on the agenda (see listing on page 6). Commissioner Helberg moved, seconded by Commissioner Whitworth, to approve the administrative dismissal of each case with a “no reasonable grounds” determination in each. 5 in favor | 0 opposed.
 - There were two administrative determinations made at the last Commission meeting that were erroneous. Commissioner Helberg moved, seconded by Commissioner Whitworth, to reconsider the vote to dismiss the cases of Hemingway v Walgreens (E18-0265-A) and Van Rose v Yarcheski (E18-0359); 5 in favor | 0 opposed. Commissioner Helberg moved, seconded by Commissioner Whitworth, to return those two cases to investigation; 5 in favor | 0 opposed.
- o In January there were five predetermination settlement agreements totaling \$157,500 in benefits to complainants. In February there were 14 predetermination settlement agreements totaling \$253,109. In March there were 6 predetermination settlement agreements totaling \$144,500.

Quarterly: Executive Director Sneirson discussed FY2019’s third quarter agency performance:

- Training & Education: Commission staff attended/presented at 9 trainings/presentations.
- Financial Report: Presented and placed on file.
- Pending inventory: At the end of the quarter on 3/31, the Commission had 790 cases pending, with the average age of cases in the agency at 255 days; cases are with investigators for an average of 177 days.

NEW BUSINESS

Executive Director Sneirson provided a review of a number of bills about which the Commission had provided information at the Legislature, including LDs 122, 123, and 278 (related to pay compensation and equity), 170 (criminal history inquiries on state employment applications), 433 (Constitutional equal rights amendment), 798 (religious exemptions to school vaccine requirements), 1097 (tenants and sexual harassment), service animal bills, the biennial budget, and others. The Executive Director described other legislation that will impact the MHRA or the Commission and which will be heard later, including bills to: add domestic violence victims as a protected class in employment; to clarify accommodations an employer must make for pregnancy; to provide “fair chance” protections in employment, housing and education for persons with criminal history; to address public restroom access; to address safe school climates; to create a pilot program at the Commission to assess incidence of discrimination against persons who are homeless; to provide additional resources to the Commission; and others. These are all in addition to the three agency bills the Commission submitted, which have not been released yet by the Revisor’s office. With respect to the biennial budget, the initial public hearing before the Judiciary and Appropriations Committee occurred, as did the work session at Judiciary; the work session with Appropriations is this week but the budget will not be complete for some months.

LITIGATION: Moved to after Executive Session.

At 8:48 AM Commission Chair Clark began the case hearing agenda.

CASES VOTED ON:

H18-0352-ABC:* Robert Lavin (Portland) v. Avesta Housing/Manny Urgiles/Nicholas Kjeldgaard (Portland). Attorney David Chamberlain restated the position of the Respondents. Robert Lavin restated his position as the Complainant. Chief Investigator Alice A. Neal restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find **Reasonable Grounds** to believe that Avesta Housing/Manny Urgiles/Nicholas Kjeldgaard discriminated against Robert Lavin because of his disability by failing to make a reasonable accommodation. 5 in favor | 0 opposed.

E17-0050: Deborah Q. Hagler, M.D. (Harpwell) v. Martin's Point Health Care, Inc. (Portland). Complainant Deborah Q. Hagler did not appear. Commissioner Oettinger moved, seconded by Commissioner Whitworth, to find there are No Reasonable Grounds to believe that Martin's Point Health Care discriminated against Deborah Q. Hagler, M.D., on the basis of disability, and No Reasonable Grounds to believe that Martin's Point Health Care retaliated against Deborah Q. Hagler, M.D. for engaging in WPA- and/or MHRA-protected conduct. 5 in favor | 0 opposed.

E17-0091:* Lauren Kennett (Cape Elizabeth) v. Noble Home Health Care (Portland). Respondent did not appear. Commissioner Helberg moved, seconded by Commissioner Norman, to find there are No Reasonable Grounds to believe that Noble Home Health Care discriminated against Lauren Kennett on the basis of sex (hostile work environment), and **Reasonable Grounds** to believe that Noble Home Health Care retaliated against Lauren Kennett for engaging in WPA-protected conduct. 5 in favor | 0 opposed.

E17-0132: Christopher Grant (Belgrade) v. On Target Utility Services (Gardiner). Attorney Samuel S. Riotte restated the position of the Complainant. Attorney Kevin J. Haskins restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Oettinger, to find there are No Reasonable Grounds to believe that On Target Utility Services discriminated against Christopher Grant on the basis of disability, and No Reasonable Grounds to believe that On Target Utility Services retaliated against Christopher Grant for engaging in WPA-protected conduct. 4 in favor | 0 opposed | 1 Recused (Norman).

At 9:55 Chair Clark called for a 5 minute recess.

E17-0161: Janet Quint (Pittsfield) v. CTME, LLC (Color Tyme d/b/a Rent a Center) (Wichita, KS). Attorney James F. Pross restated the position of the Complainant. Attorney Douglas P. Currier restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find there are No Reasonable Grounds to believe that CTME, LLC (Color Tyme d/b/a Rent a Center), discriminated against Janet Quint on the basis of age. 5 in favor | 0 opposed.

E17-0170A/B: Manuel R. Olivas (Brewer) v. Transco Business Technology (Augusta) & Conway Office Solutions (Conway, NH). Attorney Sarah Churchill restated the position of the Complainant. Attorney Steven Silver restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Norman, to find there are No Reasonable Grounds

to believe that Transco Business Technologies or Conway Office Solutions discriminated against Manuel R. Olivas on the basis of disability, age, race, religion, or retaliated against him for engaging in any protected activity. 5 in favor | 0 opposed.

E17-0195: Adam E. Flanders (Dana Point, CA) v. Athenahealth, Inc. (Belfast). Complainant did not appear. Commissioner Whitworth moved, seconded by Commissioner Oettinger, to find there are No Reasonable Grounds to believe that Athenahealth, Inc. discriminated against Adam Flanders on the basis of disability. 5 in favor | 0 opposed.

E18-0107: James Williams (Poland) v. Troiano Waste Services (South Portland). Complainant did not appear. Commissioner Norman moved, seconded by Commissioner Whitworth, to find there are No Reasonable Grounds to believe that Troiano Waste Services discriminated against James Williams on the basis of sex by subjecting him to a hostile work environment, and No Reasonable Grounds to believe that Troiano Waste Services retaliated against James Williams for asserting rights under the Maine Human Rights Act. 5 in favor | 0 opposed.

E18-0137: Kristopher Axelsen (South Portland) v. Wells Emergency Medical Services (South Portland). Complainant did not appear. Commissioner Whitworth moved, seconded by Commissioner Norman, to find there are No Reasonable Grounds to believe that Wells Emergency Medical Services retaliated against Kristopher Axelsen because MHRA- and/or WPA-protected activity. 5 in favor | 0 opposed

PA18-0138: Youlonda Willingham (Limerick) v. River Valley Taxi (Rumford). Complainant was not present. Commissioner Oettinger moved, seconded by Commissioner Norman, to find there are No Reasonable Grounds to believe that River Valley Taxi discriminated against Youlonda Willingham in access to public accommodation on the basis of race and/or color. 5 in favor | 0 opposed.

H18-0380-ABC:* Shawn D. Loundon (York) v. Victoria Lee (York), Caincrest LLC (York), & Allen E. Shepard (Kennebunk). Respondents did not appear. Commissioner Norman moved, seconded by Commissioner Helberg, to find **Reasonable Grounds** to believe Respondents Victoria Lee and Caincrest LLC discriminated against Complainant Shawn D. Loundon based on disability when it refused to permit his assistance animal, and **Reasonable Grounds** to believe Respondents Victoria Lee, Caincrest LLC, and Alan Shepard discriminated against Complainant Shawn D. Loundon based on disability when they attempted to evict him. 5 in favor | 0 opposed.

H18-0391-AB:* Darleen Gray & Anthony Harmon, Jr. (Auburn) v. Stanley Hinds & Nancy Hinds (Greene). Attorney Laura A. Maher restated the position of the Respondents. Attorney Patricia Ender restated the position of the Complainant. Chief Investigator Alice A. Neal restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Oettinger, to find **Reasonable Grounds** to believe that Stanley Hinds and Nancy Hinds discriminated against Darleen Gray and Anthony Harmon, Jr. on the basis of disability or association with a person with a disability in the terms and conditions of their housing by charging a pet deposit for an assistance animal, and **Reasonable Grounds** to believe that Stanley Hinds and Nancy Hinds

retaliated against Darleen Gray and Anthony Harmon, Jr. for asserting their rights under the Maine Human Rights Act. 5 in favor | 0 opposed.

EXECUTIVE SESSION

At 11:59 AM, Commissioner Norman 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). 5 in favor | 0 opposed.

At approximately 12:50 PM, Commissioner Oettinger moved, seconded by Commissioner Helberg, to come out of executive session. 5 in favor | 0 opposed.

Commissioner Norman moved, seconded by Commissioner Whitworth, to approve the conciliation agreements in Stover v Dept. of Health and Human Services (E17-0004) and McClellan v Gervais (H18-0155). 5 in favor | 0 opposed.

Commissioner Oettinger moved, seconded by Commissioner Helberg, not to litigate the following reasonable-grounds cases:

- E17-0457, Denbow v. Shade Doctor of Maine
- E17-0002, Auclair v. Coasters
- E17-0016, Osgood v. Advantage Solutions
- PA16-0450, Gross v. SOM/MDOC/MCC
- E17-0210-C, Moody v. Boddie
- E16-0449, Keeran v. Discovery House
- H18-0155, McClellan v. Gervais
- PA17-0060, Van Hall Sr. v. FOE
- PA16-0472, Mokarzel v. H&B Realty

At approximately 12:55 PM, Commissioner 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.

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| PA17-0073A: | Nicolas David Bernard Ennis (Windham) v. Maine Correctional Center (Windham) | NRG |
| E17-0121: | Pamela J. Le (Fort Myers, FL) v. Auburn School Department (Auburn) | NRG |
| PA17-0130: | Daniel Ruffin (Rockland) v. Knox County Jail (Rockland) | NRG |
| E17-0143: | Cong Nguyen (Portland) v. HP Hood, LLC (Portland) | NRG |
| E17-0194AB: | Emily L. Hoyt (Presque Isle, ME, U.S.A.) v. Emera Maine (Bangor, ME, U.S.A.) & Emera, Inc. (Halifax, NS, Canada) | NRG |
| E17-0269: | Mercy Edwin (Auburn) v. Clover Health Care (Auburn) | NRG |
| E17-0277: | Kenneth Duane (Arundel) v. Professional Security Consultants/Steven Krumrine ¹ / ₂ /GGP Inc. ³ ABC: (Los Angeles, CA/Chicago, IL) | NRG |
| PA17-0285: | Aaron Grindle (Waldoboro) v. Sandy Shores RV Resort (Warren) | NRG |
| PA17-0342 AB: | Steven R. Anctil (Warren) v. State of Maine/Department of Corrections (Augusta) & Correct Care Solutions (Augusta) | NRG |
| E17-0385: | Vanessa Boyce (Rockland) v. Harbor Hounds (Rockland) | NRG |
| E17-0419: | Karlie Dymont (Naples) v. Bridgton Hospital (Bridgton) | NRG |
| PA18-0025 ABC: | Rev. Phelan Moonson (Lewiston) v. Wyndham Hotel Group (Parsippany, NJ), Super 8 Motel (Lewiston) Nileschandra Patel (Manchester, NH) | NRG |
| E18-0071AB: | Holly Bernstein (Falmouth) v. Bureau of Human Resources/DAFS (Augusta) | NRG |
| E18-0111: | Peter Joyce (Richmond) v. Maine General Hospital (Augusta) | NRG |
| E18-0115: | Heather Lemay (Buxton) v. Richard P. Waltz Plumbing & Heating (Portland) | NRG |
| E18-0128: | Jeffrey Watt (Madison) v. SAPPI (Madison) | NRG |
| E18-0187: | Tonya Labbe (Lewiston) v. Health Care Resource Center (Lewisville, TX), Michael Franklin ABC: (Lewiston), and Evelyn Reindhart (Peabody, MA) | NRG |
| H18-0438AB: | Rachel Boucher (Portland) v. Sara McKee (Portland) & Milk Street Capital (Portland) | NRG |
| H18-0444AB: | Christopher Ouellette, Sr. & Christopher Ouellette, Jr. (Canton) v. Cliff McNeil & Butterfield Estates, LLC (Sumner) | NRG |

ADMINISTRATIVE DETERMINATIONS

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| E18-0224 | Jane O'Mahoney (Whitefield) v. Roberta Lucas, Federal Program Coordinator (Augusta) | NRG |
| E18-0261 | Deanna Trask (Skowhegan) v. Franklin-Somerset Federal Credit Union (Skowhegan) | NRG |
| E18-0270 | Hayden Stoddard (Orono) v. Kyle Rogerson, Store Manager (Zionsville, IN) & Hat World, Inc. AB D/B/A Lids (Zionsville, IN) | NRG |
| E18-0301 | Victoria Raymond (Windham) v. Wireless Construction, Inc. (Standish) | NRG |
| PA18-0304: | Rita Nzingoula (Portland) v. Maine Medical Center (Portland) | NRG |
| E18-0307 | David Taylor (Carmel) v. Jason's New York Style Pizza (Bangor) | NRG |
| PA18-0311 | Michael S. Lodge (Osteen, FL) v. Cabbage Island Clambake (Boothbay Harbor) | NRG |
| E18-0340 | Georgia Cromwell (South Portland) v. Bill Stanton (Saco) & The Inn at Atlantic Heights (Saco) AB | NRG |
| E18-0351 | Shannon M. Moretto (Bangor) v. Jackson Laboratories (Bar Harbor) | NRG |
| E18-0354 | Hayley Pendergast (Bucksport) v. Maine Course Hospitality Group (Freeport) | NRG |
| PA18-0389 | Mark Chapman (Portland) v. Southern Maine Agency on Aging (Portland) | NRG |
| PA18-0395 | Mark Chapman (Portland) v. Maine Behavioral Healthcare (MBH) (Portland) | NRG |
| PA19-0022 | Beverly Lavigne (New Sharon) v. Franklin County Court (Portland), Joseph M. O'Donnell (Augusta), ABC Donald Marden (Portland) | NRG |
| PA19-0039 | Richard W. Goodwin (Brownville) v. District Court Judge Charles F. Budd Jr. (Ellsworth)/Meriailis Joslin ABCD (Ellsworth)/Rosemarie Giosia Esq. (Ellsworth)/Zachary McNally Hale & Hamlin LLC (Ellsworth) | NRG |
| E19-0075 | Robyn L. Saunders (Scarborough) v. Jack Flaherty, Tom Gordon, Carol Ann Doucette, Bill Maxwell, Betty B-N: McInnes, Damon Yakovleff, Chris Brewer, Jodie Keene, Anthony Amico, John Blake, Charles Norman, Chris Olsen, Bill Rus (Windham) | NRG |
| H19-0105: | Pauline Boyington (Mars Hill) v. Town of Mars Hill (Mars Hill) | NRG |