



# Maine Human Rights Commission

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EXECUTIVE DIRECTOR

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## COMMISSION MEETING MINUTES DECEMBER 13, 2021 MEETING

*\*via ZOOM\**

Commissioner Deborah Whitworth chaired the meeting and called it to order at 8:30 AM. Also present were Commissioners Commissioners Jefferson Ashby, Edward David, Jill Duson, and Julie O'Brien.

### AGENDA

Commissioner Ashby moved, seconded by Commissioner David, to adopt the Agenda and Consent Agenda to accept the Investigator's recommended decision in each of the cases listed on the Consent Agenda (see listing on page 4). 5 in favor | 0 opposed.

### MINUTES

Commissioner Ashby moved, seconded by Commissioner David, to adopt the November 8, 2021 Commission Meeting Minutes. 5 in favor | 0 opposed.

### ADMINISTRATION

Executive Director Amy Sneirson reported on the following Commission activities:

#### Monthly reports:

- Personnel: Currently holding interviews for vacant MHR Investigator position.
- Compliance: Since the last meeting, there were three unsuccessful conciliation and no successful conciliations. Seven reasonable grounds cases remain in active conciliation.
  - Commissioner Ashby moved, seconded by Commissioner Whitworth, to approve the post-conciliation agreement in the reasonable-grounds case of Peavey v. Burlington Municipal Fire (E19-0298). 5 in favor | 0 opposed.
  - Commissioner David moved, seconded by Commissioner Duson, to dismiss Varney v. Planet Fitness (E19-0019), a reasonable-grounds case in which the conciliation agreement was fully implemented. 5 in favor | 0 opposed.
- New Charges: 53 new complaints filed in November 2021.
- Administrative Dismissals: Seven administrative dismissals issued in November 2021.

The Commission completed the business portion of the agenda at 8:40 AM.

At 8:45 AM Commissioner Whitworth began the case hearing agenda.

E19-0450: Heather Beach (Portland) v. Mentor ABI, LLC, d/b/a NeuroRestorative Maine (Standish). Barbara Lelli restated the position of the Complainant. Attorney Peter Herzog restated the position of the Respondent. Investigator Alice Neal reviewed their report and recommendations. Commissioner David moved, seconded by Commissioner O'Brien, to find there are no reasonable grounds to believe that Mentor ABI, LLC, d/b/a NeuroRestorative Maine discriminated against Heather Beach in employment based on her disability (reasonable accommodation and/or discharge) and that there are no reasonable grounds to believe Mentor ABI, LLC, d/b/a NeuroRestorative Maine

retaliated against Heather Beach for engaging in WPA- and/or MHRA-protected activity. 4 in favor | 1 opposed (Duson opposed).

The following case was taken out of order:

PA20-0057\*: Jonathan Caterino (Amity) v. Northeastern Motel (Kittery). Attorney Peter Doyle restated the position of the Respondent. Attorney Kelly Hoffman restated the position of the Complainant. Investigator Alex Brindley reviewed her report and recommendations. Commissioner Ashby moved, seconded by Commissioner Whitworth, to find **reasonable grounds** to believe that Northeastern Motel discriminated against Jonathan Caterino on the basis of disability by making an unlawful inquiry about his service animal. 5 in favor | 0 opposed.

PA20-0008A-F: Loren Shuck (Palerno) v. eBay, Inc. (San Jose, CA), Tiffany Boyd (San Jose, CA), Rebecca Ryan (Draper, UT), Mark LaPole (San Jose, CA), Pierre Omidyar (San Jose, CA) and John Donahoe (San Jose, CA). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner O'Brien, to find no reasonable grounds to believe that eBay Inc., Tiffany Boyd, Rebecca Ryan, Mark LaPole, Pierre Omidyar, and/or John Donahoe discriminated against Loren Schuck on the basis of his disability or retaliated against him for engaging in MHRA-protected activity. 5 in favor | 0 opposed.

E20-0022: George Stanley (Greene) v. RC Mgmt. (Saco). Complainant was not present. Commissioner David moved, seconded by Commissioner Duson, to find there are no reasonable grounds to believe that RC Mgmt. discriminated against George Stanley in employment on the basis of race, ancestry, age, physical or mental disability, sex, sexual orientation, or religion, or that RC Mgmt retaliated against George Stanley for engaging in protected activity, and that there are no reasonable grounds to believe that RC Mgmt discriminated against George Stanley in public accommodations on the basis of race, ancestry, physical or mental disability, sex, sexual orientation, or religion, or that RC Mgmt retaliated against George Stanley for engaging in protected activity. 5 in favor | 0 opposed.

E/PA20-0023: Kevin Paine (Waterford) v. Harrison Food Bank (Harrison). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner O'Brien, to find there are no reasonable grounds to believe that Harrison Food Bank discriminated against Kevin Paine on the basis of disability in public accommodations and/or employment, and that there are no reasonable grounds to believe that Harrison Food Bank retaliated against Kevin Paine for engaging in MHRA-protected activity in public accommodations and/or employment, and that there are no reasonable grounds to believe that Harrison Food Bank retaliated against Kevin Paine for engaging in WPA-protected activity in employment. 5 in favor | 0 opposed.

E20-0092: James A. Trusiani (Brunswick) v. Crooker Construction (Topsham). James Trusiani restated his position as the Complainant. Attorney Gregg Frame restated the position of the Respondent. Investigator Robert Beauchesne reviewed his report and recommendations. Commissioner Ashby moved, seconded by Commissioner David, to find that there are no reasonable grounds to believe that Crooker Construction retaliated against James A. Trusiani for engaging in WPA-protected activity. 5 in favor | 0 opposed.

E20-0160: Grace Woodham (North Haverhill, NH) v. LU 567 (Lewiston). Complainant was not present. Commissioner Duson moved, seconded by Commissioner Whitworth, to find that there are no reasonable grounds to believe that LU 567 discriminated against Grace Woodham on the basis of disability, sex, or sexual orientation, or retaliated against her for engaging in MHRA-protected activity. 5 in favor | 0 opposed.

E20-0183: Philona Elliot (Canton) v. O'Reilly Auto Parts (Farmington O'Reilly Auto Parts). Philona Elliot restated her position as the Complainant. Attorney Chris Taintor restated the position of the Respondent. Investigator Alex Brindley reviewed the investigator report of Milo Gitchos and his recommendations. Commissioner Whitworth moved, seconded by Commissioner David, to find that there are **reasonable grounds** to believe that O'Reilly Auto Parts discriminated against Philona Elliot based on sex. 4 in favor | 1 opposed (O'Brien opposed).

E20-0221: Judith Duke (Georgetown) v. Sweetser (Saco). Judith Duke restated her position as the Complainant. Attorney Elizabeth Olivier restated the position of the Respondent. Investigator Jane O'Reilly reviewed the investigator report of Milo Gitchos and his recommendations. Commissioner Whitworth moved, seconded by Commissioner Ashby to find No Reasonable Grounds to believe that Sweetser discriminated against Judith Duke based on her age. 5 in favor | 0 opposed.

At 11:51 AM the Commission took a 10 minute recess.

At 12 PM Commissioner Whitworth began the afternoon session.

### **CASES VOTED ON PM SESSION**

H21-0196AB\*: Yohannis Selassie (Augusta) v. Mark Fortin (Winthrop) and Michelle Fortin (Winthrop). Attorney Greg Patient restated the position of the Respondents. Attorney Chet Randall restated the position of the Complainant. Investigator Alex Brindley reviewed her report and recommendations. Commissioner David moved, seconded by Commissioner Duson, to find that there are no reasonable grounds to believe that Mark Fortin and Michelle Fortin discriminated against Yohannis Selassie on the basis of race and/or color, and that there are **reasonable grounds** to believe that Mark Fortin and Michelle Fortin discriminated against Yohannis Selassie on the basis of religion, by failing to accommodate his religious beliefs and by evicting him. 5 in favor | 0 opposed.

H21-0257AC\*: Angela Carey (Farmingdale) v. Kimberly Rackliff (Farmingdale) and C.B. Mattson, Inc. (Farmingdale) Attorney David Van Baars restated the position of Respondent C.B. Mattson. Respondent Kimberly Rackliff was not present. Angela Carey restated her position as the Complainant. Investigator Kit Thomson Crossman reviewed their report and recommendations. Commissioner David moved, seconded by Commissioner Ashby, to find that there are **reasonable grounds** to believe that Kimberly Rackliff discriminated against Angela Carey on the basis of sexual orientation. 5 in favor | 0 opposed. Commissioner David moved, seconded by Commissioner Duson, that there are **reasonable grounds** to believe that C.B. Mattson, Inc., discriminated against Angela Carey on the basis of sexual orientation. 5 in favor | 0 opposed.

### **EXECUTIVE SESSION**

At 1:17 PM, Commissioner Whitworth moved, seconded by Commissioner David, 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 1:41 PM, Commissioner Ashby moved, seconded by Commissioner David, to come out of Executive Session. 5 in favor | 0 opposed.

### **LITIGATION**

Commissioner David moved, seconded by Commissioner Whitworth, to authorize Commission Counsel Barbara Archer Hirsch and Executive Director Amy Sneirson to enter into/execute a conciliation agreement on behalf of the Commission in the reasonable-grounds case of Bragg v. Walmart (E19-0363). 5 in favor | 0 opposed.

At approximately 1:43 PM the meeting was adjourned.

*\*Indicates a case in which a "reasonable grounds" finding is or was recommended.*

## 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.

E20-0045	William Paul Niehoff (South Portland) v. Greater Portland Council of Governments (Portland)	NRG
E20-0054AB	Wanda Holmes (Easton) v. Melissa Graham (Caribou) & Maine Veterans' Home (Augusta)	NRG
E20-0088	Robert Bastey (Portland) v. United Parcel Service, Inc. (City of South Portland)	NRG
E20-0091	Susan Gayle (Portland) v. Greater Androscoggin Humane Society (Lewiston)	NRG
E20-0318	Richard Flanders (Falmouth) v. SP Plus Corporation (Portland)	NRG
PA19-0495	Richard Steeves (Windham) v. Maine State Prison (Warren)	NRG
PA20-0374	James Huger (New Orleans, LA) v. Town of Castine (Castine)	NRG
PA20-0395	Niyi Kelani (New York, NY) v. Silver Street Tavern (Waterville)	NRG