



# Maine Human Rights Commission

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EXECUTIVE DIRECTOR

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## COMMISSION MEETING MINUTES July 31, 2023 MEETING

*In person (19 Union Street, Augusta, ME) and via ZOOM*

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

### AGENDA

Commissioner David moved, seconded by Commissioner O'Brien to adopt the Agenda as amended 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). 3 in favor | 0 opposed.

### MINUTES

Commissioner O'Brien moved, seconded by Commissioner David, to adopt the June 2023 Commission Meeting Minutes. 2 in favor | 0 opposed | 1 abstained (Ashby abstained).

At approximately 8:35 AM, Commissioner Thomas Douglas joined the meeting.

### ADMINISTRATION

Monthly reports : Executive Director Sneirson discussed reporting on the following Commission activities:

- Personnel: A report was placed on file.
- Compliance: Since the last meeting, there were no successful conciliations and two unsuccessful conciliations. Two reasonable-grounds cases remain in active conciliation.
- New Charges: 32 new complaints filed in June 2023.
- Administrative Dismissals: 10 administrative dismissals issued in June 2023.
- Pre-determination settlements: 14 pre-determination cases settled with benefits of \$671,000 to complainants in June 2023.

Quarterly reports :

- Training & Education: Commission staff attended/participated in 20 training or education sessions in the fourth quarter of the fiscal year.
- Financial Reports: Presented and placed on file.
- Pending Inventory: 614 cases pending at the end of June 2023.

New Business: E.D. Sneirson reported that the state legislative session ended, with the biennial budget signed into law by the Governor including two new positions for the Commission (one investigator and one business manager). Also, a bill to make consistent the MHRA protections in services delivered by public entities (as opposed to places of public accommodations) passed in the House and Senate, was funded by the Legislature's Appropriations and Financial Affairs Committee and enacted, and was sent to the Governor just before the legislative session ended.

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

## HEARING AGENDA (MORNING SESSION)

E21-0233ABC: *Louis Ouellette (Windham) v. University of Maine System (Gorham), Susan Robinson (Gorham) & Kim Tran (Gorham)*. Louis Ouellette presented his position as the Complainant. Attorney Melissa Hewey presented the position of the Respondents. Investigator Robert Beauchesne reviewed their report and recommendations and/or answered Commissioner questions. Commissioner David moved, seconded by Commissioner Douglas, to find that there are no reasonable grounds to believe that University of Maine System unlawfully discriminated against Louis Ouellette on the basis of disability, and that there are no reasonable grounds to believe that Susan Robinson and/or Kim Tran unlawfully interfered with Louis Ouellette's right to a workplace free of disability discrimination, and that there are no reasonable grounds to believe that University of Maine System, Susan Robinson, or Kim Tran unlawfully retaliated against Louis Ouellette for engaging in MHRA-protected conduct, and the complaint should be dismissed in keeping with 5 M.R.S. § 4612(2). 3 in favor | 0 opposed | 1 recused (Ashby recused).

E21-0299: *George Peterson (Dexter) v. State of Maine; Department of Corrections Mountain View Correctional Facility*. George Peterson presented his position as the Complainant. Attorney Jeremy Carter presented the position of the Respondent. Investigator Alex Brindley reviewed their report and recommendations and/or answered Commissioner questions. Commissioner David moved, seconded by Commissioner O'Brien, to find there are no reasonable grounds to believe that Respondent State of Maine, Department of Corrections Mountain View Correctional Facility retaliated against George Peterson for engaging in WPA-protected conduct, and the complaint should be dismissed in accordance with 5 M.R.S. § 4612(2). 3 in favor | 1 opposed (Douglas opposed).

E21-0317AB\*: *Dennis McAlister (Cape Elizabeth) v. McAllister Towing & Transportation Co, Inc. (New York) & Portland Tugboat, LLC (Portland)*. Attorney Steven Silver presented the position of the Respondents. Attorney Amy Dietrich presented the position of the Complainant. Investigator Robert Beauchesne reviewed their report and recommendations and/or answered Commissioner questions. Commissioner Ashby moved, seconded by Commissioner O'Brien, to find that there are **reasonable grounds** to believe that McAllister Towing & Transportation Co., LLC, and Portland Tugboat, LLC discriminated against Dennis H. McAlister on the basis of age by discharging him, and conciliation of this claim should be attempted in keeping with 5 M.R.S. § 4612(3), and there are no reasonable grounds to believe that McAllister Towing & Transportation Co., LLC, and Portland Tugboat, LLC discriminated against Dennis H. McAlister on the basis of age by creating a hostile work environment and this claim should be dismissed in accordance with 5 M.R.S. § 4612(2). 4 in favor | 0 opposed.

E21-0400AB: *Thomas Barnes (Limestone) v. Huber Engineered Woods, LLC (Charlotte, NC) & Huber Engineered Woods, LLC (Easton, Maine)*. Attorney Adam Swanson presented the position of the Complainant. Attorney Daniel Strader presented the position of the Respondents. Investigator Nupur Leva reviewed their report and recommendations and/or answered Commissioner questions. Commissioner O'Brien moved, seconded by Commissioner David, to find there are no reasonable grounds to believe that Huber Engineered Woods, LLC (NC) and Huber Engineered Woods, LLC (ME) discriminated against Complainant on the basis of disability (reasonable accommodations, discharge); and the complaint should be dismissed in accordance with 5 M.R.S. § 4612(2). 3 in favor | 0 opposed | 1 recused (Ashby recused).

E21-0518ABC: *Katheryne Stinson (New Gloucester) v. Aspen Dental Management, Inc (Bangor), Oakes, LLC (Bangor) & Juno Dental, LLC (Bangor)*. Attorney Amy Dietrich presented the position of the Complainant. Attorney Joshua Marcus presented the position of the Respondents. Investigator Colin Hurd reviewed their report and recommendations and/or answered Commissioner questions. Commissioner O'Brien moved, seconded by

Commissioner Ashby, to find there are no reasonable grounds to believe that Respondents Aspen Dental Management, Inc., Oakes, LLC, and Juno Dental, LLC, discriminated against Katheryne Stinson on the basis of sex or disability or interfered with her right to be free from such discrimination, and there are no reasonable grounds to believe that Respondents Aspen Dental Management, Inc., Oakes, LLC, and Juno Dental, LLC, retaliated against Katheryne Stinson for engaging in MHRA or WPA protected activity or interfered with her right to be free from such retaliation, and the complaint should be dismissed in accordance with 5 M.R.S. § 4612(2). 4 in favor | 0 opposed.

At 11:50 AM the Commission recessed until the afternoon session. At 12:00 PM the Commission resumed for the afternoon session.

### HEARING AGENDA (AFTERNOON SESSION)

ED/PA22-0175: Christine Yu (Falmouth) v. Sam Critchlow (Limestone). Christine Yu presented her position as the Complainant. Attorney Kelly Morrell presented the position of the Respondent. Investigator Angela Morse reviewed their report and recommendations and/or answered Commissioner questions. Commissioner O'Brien moved, seconded by Commissioner David, to find there are no reasonable grounds to believe that Sam Critchlow discriminated against Christine Yu on the basis of ancestry, national origin, race, or disability, or engaged in unlawful retaliation for engaging in MHRA-protected activity, and The complaint should be dismissed in accordance with 5 M.R.S. § 4612(2). 4 in favor | 0 opposed.

H23-0095AB\*: James Curtis (Lincoln) v. Dylan Andrei (Hermon) & Trusty Wrench Property Maintenance (Hermon). Attorney Kirk Bloomer presented the position of the Respondents. James Curtis presented his position as the Complainant. Investigator Alex Brindley reviewed their report and recommendations and/or answered Commissioner questions.

- Commissioner Ashby began to move that the Commission adopt both recommended decisions but, upon a request from Commissioner David to take the recommendations separately:
  - Commissioner Ashby moved, seconded by Commissioner O'Brien, to find that there are no reasonable grounds to believe that Dylan Andrei and/or Trusty Wrench Property Maintenance discriminated against James Curtis on the basis of disability (refusal to rent/making housing unavailable), and this claim should be dismissed in accordance with 5 M.R.S. § 4612(2). 2 in favor | 2 opposed (David, Douglas opposed).
  - Commissioner David moved, seconded by Commissioner O'Brien, to find that there are reasonable grounds to believe that Dylan Andrei and/or Trusty Wrench Property Maintenance discriminated against James Curtis on the basis of disability (refusal to rent/making housing unavailable), and conciliation of this claim should be attempted in accordance with 5 M.R.S. § 4612(3). 2 in favor | 2 opposed (Ashby, O'Brien opposed).
  - Since there were tie votes on both motions regarding this recommended finding, with no majority vote on either motion, under Commission's Procedural Rule 2.07(C), the default finding is that recommended by the investigator: no reasonable grounds to believe that Dylan Andrei and/or Trusty Wrench Property Maintenance discriminated against James Curtis on the basis of disability (refusal to rent/making housing unavailable), and this claim should be dismissed in accordance with 5 M.R.S. § 4612(2).
- Commissioner Ashby moved, seconded by Commissioner David, to find that there are **reasonable grounds** to believe that Dylan Andrei and/or Trusty Wrench Property Maintenance discriminated against James Curtis on the basis of disability (discriminatory statements), and conciliation of this claim should be attempted in accordance with 5 M.R.S. § 4612(3). 3 in favor | 1 opposed (Douglas opposed).

## EXECUTIVE SESSION

At approximately 1:30 PM, Commissioner Ashby 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). 4 in favor | 0 opposed.

At approximately 2:00 PM, Commissioner Ashby moved, seconded by Commissioner O'Brien, to come out of Executive Session. 4 in favor | 0 opposed.

Commissioner Ashby moved, seconded by Commissioner O'Brien not to litigate E22-0168 (Biancamano v. The Family Dollar), a reasonable-grounds case that was not successfully resolved in conciliation. 4 in favor | 0 opposed.

At approximately 2:05 PM the meeting was adjourned.

## CONSENT AGENDA

E21-0226	Evelina McLaughlin (Gloucester, VA) v. Walmart (Brewer)	NRG
E21-0245-A	Karen Burgess (Lewiston) v. Correctional Health Partners, LLC (Denver, CO)	NRG
E21-0245-B	Karen Burgess (Lewiston) v. Androscoggin County Jail (Auburn)	NRG
E21-0292AB	Patrick McKeen (Bangor) v. Mark Greenleaf (Bangor) & Nikole Robbins (Brewer)	NRG
E21-0297	Richard Martel (Gorham) v. Brann & Isaacson (Lewiston)	NRG
E21-0338	William Barbosa (West Enfield) v. Hannaford (Old Town)	NRG
E21-0481	Erika Wynn (Germantown, MD) v. Northern Light Eastern Maine Medical Center (Bangor)	NRG
E21-0503	Ellen Toole (Portland) v. Sutherland Weston, Inc DBA Sutherland Weston Marketing Communications (Bangor)	NRG
E22-0053	Sean Sweeney (Brewer) v. United Parcel Services, Inc. (Brewer)	NRG
E22-0091AB	Daniel Profenno (Portland) v. EcoMaine (Portland) & Matt Hebert (Portland)	NRG
PA22-0144(A-C)*	Jill and William Chancey v. Black Horse Inn (Searsport), ZR Management, LLC (Lincolntonville) & Francesca Gangitano (Searsport)	<b>RG</b>
E22-0164	Justin Reber (Cornville) v. Dollar Tree (Skowhegan)	NRG
H/PA22-0356	Jessica Judkins (Livermore) v. JDR Rentals (Auburn), Christina Rivera aka Chrissy Siragusa	NRG
E22-0395	William Fenn (Jefferson) v. Bath Iron Works (Bath)	NRG
H23-0036(A-DF)	Marsha Taylor (Brunswick) v. Malinda Mckinnon (Brunswick), Henry Berg (Cumberland Center), Jessica Bolduc (Brunswick), Sarah Aschauer (Brunswick) & Edgefield Condo. Ass'n (Brunswick)	NRG
H23-0061	Adam Roy (Portland) v. The Iris Network (Portland)	NRG
H23-0082	Christopher Hall (Portland) v. Bryan Murphy (Old Orchard Beach)	NRG
H23-0084*	Melissa Hair (Falmouth), Sasha Williams (Falmouth) v. Howard Yee (Falmouth)	<b>RG/</b> NRG
H23-0101AB	Lynn & Tracy Shaw (Portland) v. Jonathan Raposo & Samantha Doughty (both of Derry, NH)	NRG
H23-0142AB	Doris Winn (Old Orchard Beach) v. American Building Group, LLC & Darren Lovley (both of Falmouth)	NRG

## TABLED

H23-0049A-D John McLeod (South Paris) v. Madison Avenue Associates (Oxford), Sandra Bahre (Oxford), Speedway, Inc (Oxford) & Winward Apartments, LLC (Oxford).

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