



# Maine Human Rights Commission

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EXECUTIVE DIRECTOR

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## COMMISSION MEETING MINUTES November 20<sup>th</sup>, 2023 MEETING

*\*via ZOOM\**

Commissioner Ashby chaired the meeting and called it to order at 8:31 AM. Also present were Commissioners David, O'Brien, Douglas, and Walker.

### AGENDA

Commissioner Douglas 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). 4 in favor | 0 opposed | 1 abstained (Ashby).

### MINUTES

Commissioner O'Brien moved, seconded by Commissioner Walker, to adopt the October 2023 Commission Meeting Minutes. 5 in favor | 0 opposed.

### ADMINISTRATION

Monthly reports: Acting Executive Director Thomson Crossman discussed reporting on the following Commission activities:

- Personnel: A report was placed on file.
- Compliance: Since the last meeting, there were two unsuccessful conciliation and three successful conciliations. Seven reasonable-grounds cases remain in active conciliation.
  - Commissioner O'Brien moved, seconded by Commissioner Douglas, to accept the conciliation agreements in the reasonable-grounds cases:
    - E20-0544, Randolph v. Rockland Marine Corp.
    - E21-0317-AB, McAlister v. McAlister Towing et al
    - E21-0347, Tuscano v. New Beginnings
- New Charges: 40 new complaints filed in October 2023.
- Administrative Dismissals: 5 administrative dismissals and 5 Right-to-Sue notices issued in October 2023.
- Pre-determination settlements: 9 pre-determination cases settled with benefits of \$167,500 to complainants in October 2023.

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

E21-0474 *Adam Shapiro (Kittery Point) v. Cianbro Corp. (Pittsfield)*. Attorney Jeff Young presented Complainant's position. Attorney Melinda Catherine presented Respondent's position. Investigator Colin Hurd reviewed his report and recommendations and answered Commissioner questions. Commissioner David moved, seconded by Commissioner O'Brien, to find there are No Reasonable Grounds to believe that Cianbro Corp. retaliated against Adam Shapiro on the basis of WP A-protected activity; and the complaint should be dismissed in accordance with 5 M.R.S. § 4612(2). 5 in favor | 0 opposed.

E21-0514\* *Chad Nguyen (Auburn) v. Walmart Inc. (Bentonville, AZ)*. Attorney Timothy Powell presented Respondent's position. Attorney Braden Beard presented Complainant's position. Investigator Nupur Leva reviewed her report and recommendations and answered Commissioner questions.

Commissioner O'Brien moved, seconded by Commissioner David, to find there are No Reasonable Grounds to believe that Walmart Inc. retaliated against Chad Nguyen for engaging in MHRA- and/or WPA-protected activity, and this claim should be dismissed in accordance with 5 M.R.S. 4612(2).

5 in favor | 0 opposed.

Commissioner Ashby moved, seconded by Commissioner Walker, to find there are **Reasonable Grounds** to believe that Walmart Inc. discriminated against Chad Nguyen on the basis of his disability when it denied his reasonable accommodation request and conciliation of this claim should be attempted in accordance with 5 M.R.S. 4612(3).

5 in favor | 0 opposed.

E22-0072 *John Paul Argenti (Ogunquit)v. Town of Ogunquit (Ogunquit)*. John Paul Argenti presented his position. Attorney Tyler Smith presented Respondent's position. Investigator Nupur Leva reviewed her report and recommendations and answered Commissioner questions. Commissioner David moved, seconded by Commissioner Ashby, to find there are No Reasonable Grounds to believe that the Town of Ogunquit discriminated against John Paul Argenti on the basis of age; there are No Reasonable Grounds to believe that the Town of Ogunquit retaliated against John Paul Argenti for engaging in WP A-protected activity; and the complaint should be dismissed in accordance with 5 M.R.S. § 4612(2).

5 in favor | 0 opposed.

E22-0322 *Joshua Kenney (Stockton Springs) v. University of Southern Maine (Portland)*. Complainant did not appear. Commissioner O'Brien moved, seconded by Commissioner Walker, to find there are No Reasonable Grounds to believe that the University of Southern Maine discriminated against Joshua Kenney, on the basis of age and/or disability; there are No Reasonable Grounds to believe that University of Southern Maine retaliated against Joshua Kenney for engaging in WP A-protected activity; and, the complaint should be dismissed in keeping with 5 M.R.S. § 4612(2).

4 in favor | 0 opposed | 1 recused (Ashby).

PA22-0361 *Jimmy Wai Wong (Eastport) v. City of Eastport (Eastport)*. Complainant did not appear. Commissioner Douglas moved, seconded by Commissioner David, to find there are No Reasonable Grounds to believe that Respondent City of Eastport discriminated against Complainant Jimmy Wai Wong in public accommodations due to his race, national origin and/or ancestry; and the charge should be dismissed in keeping with 5 M.R.S. § 4612(2).

5 in favor | 0 opposed.

H23-0281 *Kim Pound (Millinocket) v. Eugene Gutierrez (Rockland) 97 Wassau Street, LLC (Rockland)*. Complainant did not appear. Commissioner O'Brien moved, seconded by Commissioner Douglas, to find there are No Reasonable Grounds to believe that Eugene Gutierrez or 97 Wassau Street, LLC discriminated against Kim Pound based on national origin; and the complaint should be dismissed in accordance with 5 M.R.S. § 4612(2).

5 in favor | 0 opposed

## EXECUTIVE SESSION

At 11:21 AM, 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). 5 in favor | 0 opposed.

At approximately 12:21 PM, Commissioner Ashby moved, seconded by Commissioner Walker, to come out of Executive Session. 5 in favor | 0 opposed.

Commissioner Ashby moved, seconded by Commissioner David to litigate the following reasonable-grounds cases which was not successfully resolved via conciliation:

• H23-0084, *Hair v. Yee*;  
and not to litigate the following reasonable-grounds case which was not successfully resolved via conciliation:

• PA22-0144-BC, *Chancey v. ZR Management/Gangitano*  
5 in favor | 0 opposed.

Commissioner Ashby moved, seconded by Commissioner Douglas, to appoint Kit Thomson Crossman to the position of Executive Director, Public Service Executive II, and set their remuneration at pay grade HE38, Step 3.  
5 in favor | 0 opposed.

At approximately 12:27 PM the meeting was adjourned.

#### CONSENT AGENDA

E/PA21-0314 (A-I) Dr. Raquel Bergeron (Presque Isle) v. University of Maine at Presque Isle (UMPI) (Presque Isle), Sarah Coyer (Presque Isle), Raymond Rice (Presque Isle), Jon Roark (Chapman), Deborah Roarck (Presque Isle), Jacquelyn Lowman (Presque Isle), Stephanie Lesperance (Concord, NH), University of Maine System (UMS) (Orono), New Hampshire Campus Compact (Concord, NH)

NRG

E22-0375\* John Lausser (Spearfish, SD) v. Elite Airways Services, LLC d/b/a Elite Airways, LLC (Portland)

RG/NRG

E22-0376\* Deborah Hayes (Spearfish, SD) v. Elite Airways Services, LLC d/b/a Elite Airways, LLC (Portland)

RG/NRG

PA22-0396 Carol Morgan & Elizabeth McCandless (Auburn) v. Dunkin Donuts (Auburn)

NRG

H23-0264ABC Cathleen Espinosa (Augusta) Christopher Chipouras (Augusta) v. Michael Moody (Fort Myers, FL), Chris Velleux (Winslow) & Marwal Properties, LLC (Hallowell)

NRG

H23-0265 Tyler Murphy (East Orland) v. Home, Inc. (East Orland)

NRG

H23-0270ABC Jason Royce (Sanford) v. Mike McNeil (York), Universal Property Management, LLC (York) & Besso, LLC (Brookline, MA)

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#### TABLED

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