

Don't Count Sun. or Holiday re 6-month
filing requirement for
charges.

89

April 17, 2003

[Redacted]
[Redacted]
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[Redacted]
Johnson & Webber
PO Box 79
Augusta ME 04332

MAINE=
HUMAN
RIGHTS
COMMISSION

51 STATE HOUSE STATION
AUGUSTA, ME 04333-0051
www.state.me.us/mhrc

Executive Director
PATRICIA E. RYAN

Commission Counsel
JOHN E. CARNES

RE: [Redacted]

Dear [Redacted] Mr. Hagler and Mr. Webber

This is in response to Respondents' request for administrative dismissal of the above-entitled cases. Complainant's charges of discrimination allege employment discrimination based on a violation of the Whistleblowers Protection Act, 26 M.R.S.A. sections 831-840; 5M.R.S.A. ss 4572 (1)(A). It is undisputed that the alleged date of most recent discrimination is June 7, 2002, and that the complaints were filed with the Commission on December 9, 2002.

Respondents have filed a request for administrative dismissal pursuant to Commission Procedural Rule 2.02 H (1)&(3). Respondents argue that Complainant's complaints were untimely filed because they were not filed within the statutory 6 - month deadline. Respondents further argue that Complainant's filing is not saved by operation of Commission Procedural Rule 2.11(B), which allows next-business-day filing when the last day of the 6 month filing period falls on a Saturday, Sunday or legal state or federal holiday.

After considering all of the memoranda filed by the parties, I am denying the request for administrative dismissal.

The Maine Human Rights Act establishes the Maine Human Rights Commission. 5M.R.S.A. sections 4561- 4566. The Commission is directed to investigate complaints of unlawful discrimination, provide the parties an opportunity to resolve their dispute and, if the Commission finds reasonable grounds to believe discrimination has occurred, file a civil action in the name of the Commission in

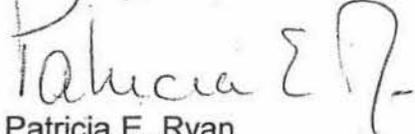
PHONE: (207) 624-6050 FAX: (207) 624-6063 TDD: (207) 624-6064

Superior Court. 5 M.R.S.A. ss 4612.

According to 1 M.R.S.A. ss 71(12), the statutory time period for performance of any act which is "a prerequisite to or is otherwise involved in or related to the commencement.. of any civil...action... shall be governed by and computed under Rule 6(a) of the Maine Rules of Civil Procedure" Under the enforcement scheme devised by the Legislature, the filing of a complaint with the Commission is an absolute prerequisite to the Commission's ability to file a civil action in Superior Court. In the absence of a Commission complaint and reasonable grounds finding, the Commission is without authority to file a civil action in Court. 5 M.R.S.A. ss 4612(4)(A). The filing of the complaint with the Commission is a prerequisite to, involved in and related to the commencement of the Commission's civil action. Accordingly, 1 M.R.S.A. ss 71 (12) requires that the Commission compute statutory time periods under M.R.C.P. 6 (a). Commission Procedural Rule 2.11 (B) is consistent with that requirement.

I have extended the deadline for Respondent's response to the Commission's Document Request to May 2, 2003. Your continued cooperation is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Patricia E. Ryan". The signature is written in dark ink and is positioned to the right of the typed name.

Patricia E. Ryan
Executive Director