



Maine Human Rights Commission

51 State House Station - Augusta, ME 04333

Patricia E. Ryan
Executive Director

John P. Gause
Commission Counsel

COMMISSION MEETING MINUTES

19 Union Street ~ Augusta, Maine

April 11, 2011

Commissioner Vestal called the April 11th, 2011 Commission meeting to order at 8:30 a.m. Present were Commissioners: Paul Vestal, Sallie Chandler, Joe Perry and A. Mavourneen Thompson.

Commissioner Vestal called for adoption of the agenda.

- Executive Director Patricia Ryan requested that case PA10-0316: David Brown (Poland) v. Town of Oxford be tabled to the May Commission Meeting because of lack of interpreter.
- Executive Director Patricia Ryan requested that case PA10-0317: David Brown (Poland) v. Oxford County Sheriff's Department (Oxford) be tabled to the May Commission Meeting because of lack of interpreter
- Executive Director Patricia Ryan requested that case PA10-0323: Kevin Myshrall (Augusta) v. Peter Morse & Peter Morse, Inc. (S Portland) be tabled to the May Commission Meeting because of lack of interpreter.
- Executive Director Patricia Ryan requested that case E09-0281: Theda Rusch-Ball (Caribou) v. The Aroostook Medical Center (Presque Isle) be tabled because of settlement.
- Executive Director Patricia Ryan requested that case PA09-0473: John Grondin (Rockland) v. L.L.Bean, Inc. (Freeport) be tabled to the May Commission Meeting at the request of the parties.
- Executive Director Patricia Ryan requested that case E10-0084: Heather Hider (Portland) v. Total Property Services, Inc. (Portland) be tabled to the May Commission Meeting at the request of the parties.
- Executive Director Patricia Ryan requested that case H10-0224: Darrell Marin & Harold Damon (Sanford) v. R. Gariepy, Sr., A. Gariepy & R. Gariepy, Jr. (Wells) be tabled to the May Commission Meeting at the request of the parties.
- Executive Director Patricia Ryan requested that case H11-0003: Gary Manuel (Bangor) v. Ed Scott (Bangor) be tabled to the May Commission Meeting at the request of the parties.

Commissioner Chandler moved, seconded by Commissioner Perry to adopt the agenda as amended. 4 in favor | 0 opposed.

CONSENT AGENDA *(see detailed listing on page 5)*

Commissioner Chandler moved, seconded by Commissioner Perry, to accept the Investigator's recommendations in each of the cases on the Consent Agenda. 4 in favor | 0 opposed.

MINUTES

Commissioner Chandler moved, seconded by Commissioner Thompson to adopt the January 24th Commission Meeting Minutes. 4 in favor | 0 opposed

QUARTERLY PROGRAM REVIEW

- Inventory Status Report & Resolutions: There were 791 open cases at the end of April 2011. The Commission closed 124 cases during the preceding quarter; 41 of those cases were closed providing some benefit to Complainants. The monetary amount recovered for Complainants during that time period was \$502,774.
- Training/Education: Commissioners reviewed the second quarter report and it was placed on file.
- Litigation - Commissioners agreed to move this item to another part of the agenda when the Commission could go into Executive Session.
- Financial: Commissioners reviewed the quarterly financial report and it was placed in the file.

ADMINISTRATION

Personnel Report: Executive Director Patricia Ryan reviewed the report dated April 4th 2011 noting no significant personnel changes. The federally funded reclassification allocations covering 4 of the 8 position reclassifications were approved in the FY 11 Emergency Supplemental budget and are now in effect. The remaining four approved position reclassifications that were approved for reclassification by the Bureau of Human Resources were not recommended in the Governor's recommended budget. The allocation to support the final 4 reclassifications has been recommended to the Appropriations Committee for reconsideration in the Biennial Budget by the Judiciary Committee. The Commission will have two interns in the Summer and two externs in the Fall.

COMPLIANCE

Compliance Report: Commissioners reviewed the compliance report and it was placed on file.

Commissioner Perry moved, seconded by Commissioner Chandler to accept the Conciliation Agreement in E09-0354 Phillip St. Pierre v. Elmet Technologies, Inc. as the case has been resolved by the parties. 4 in favor | 0 opposed.

Commissioner Perry moved, seconded by Commissioner Chandler to accept the Conciliation Agreement in E09-0242 James Tracy v. Home Living, LLC as the case has been resolved by the parties. 4 in favor | 0 opposed.

Commissioner Perry moved, seconded by Commissioner Chandler to accept the Conciliation Agreement in E09-0598 James Mackey v. Lux Painting & Paper the case has been resolved by the parties. 4 in favor | 0 opposed.

INVESTIGATION

- New Charges: Commission staff opened 92 new cases in January, 90 cases in February and 39 cases in March.

- Administrative Dismissals: Commission staff dismissed 17 cases in January, 16 cases in February and 22 cases in March.
- Pre-determination Settlements: During the month February, staff were responsible for obtaining settlements in 17 cases resulting in total monetary relief in excess of \$ 82,767 for complainants. Pre-determination Settlements: During the month March, staff were responsible for obtaining settlements in 14 cases resulting in total monetary relief in excess of \$ 203,987 for complainants.

LITIGATION: Moved to Executive Session.

NEW BUSINESS:

Commissioners discussed LD 1046, and agreed to oppose the legislation.

Commissioner Chandler moved, seconded by Commissioner Thompson to oppose LD1046. 4 in favor | 0 opposed.

Chair Paul Vestal recognized members of the Hall Dale Elementary Civil Rights Team and their advisers. A representative of the CRT presented the Commission with a copy of a booklet they published on autism.

At 8:41 AM Chair Vestal called for a 10 minute recess.

CASES VOTED ON:

E09-0190: Robert Sprague (Edgecomb) v. Bath Iron Works (Bath): Attorney Jeffrey Neil Young restated the position of the Complainant. Attorney Chris Crabtree restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Thompson moved to find reasonable grounds to believe that the Respondent, Bath Iron Works Corporation, discriminated against Complainant, Robert Sprague, on the basis of age. The was motion was not seconded. Motion failed. Commissioner Chandler moved, seconded by Commissioner Perry, to find no reasonable grounds to believe that the Respondent, Bath Iron Works Corporation, discriminated against Complainant, Robert Sprague, on the basis of age. 3 in favor | 1 opposed (Thompson opposed).

E09-0576: Colleen Mercier (N. Anson) v. S.D. Warren d/b/a Sappi Fine Paper (Skowhegan): Attorney Jeffrey Neil Young restated the position of the Complainant. Attorney John Lambert restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Chandler to find reasonable grounds to believe that the Complainant, Colleen Mercier, was subjected to unlawful sexual harassment and whistleblower retaliation. 3 in favor | 1 opposed (Vestal opposed).

PA09-0316: Walter Burch (Portland) v. Realty Resources d/b/a Denny's Restaurant (Portland). Respondent was not present. . Commissioner Chandler moved, seconded by Commissioner Perry to find **reasonable grounds** to believe that the Respondent, Realty Resources, LLC d/b/a Denny's Restarurant, discriminated against Complainant, Walter B. Burch, on the basis of race, by delaying and denying him seating and service. 4 in favor | 0 opposed.

E09-0432: Torrey Harrison (Portland) v. Spurwink Services, Inc. (Portland): Attorney Sonia Buck restated the position of the Complainant. Attorney Graydon Stevens restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Thompson to find no reasonable grounds to believe that the Respondent, Spurwink, discriminated against Complainant, Torrey Harrison, in employment because of mental disability by denying her request for a reasonable accommodation or that it retaliated against her for initiating the interactive process. 3 in favor | 1 abstained (Vestal).

E09-0372: Katharyn Cormier (Lewiston) v. Granite State Shuttle Service (NH). Attorney Adam Lee restated the position of the Complainant. Sara Barlow restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondent, Johnstone Enterprises is liable for sexual harassment of Complainant, Katharyn Cormier and that there are no reasonable ground to believe that the Respondent, Johnstone Enterprises, retaliated against Complainant, Kathryn Cormier, for complainant of sexual harassment or because of Whistleblower retaliation. 4 in favor | 0 opposed.

At 10:31 Commissioner Thompson left the meeting

E09-0435: Donald Martin (Waterville) v. State of Maine/DAFS/Maine Revenue Services (Augusta) / E09-0436: Donald Martin (Waterville) v. P. Beaudoin (Augusta): Donald Martin restated the position of the Complainant. Assistant Attorney General Susan Herman restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondents, Maine Revenue Services, State of Maine, Department of Administrative and Financial Services, or Patricia Beaudoin, discriminated against the Complainant, Donald Martin, in the terms and conditions of his employment on the bases of age, sex, disability, or whistleblower activity or that the Respondents denied Complainant a reasonable accommodation. 3 in favor 0 opposed.

E09-0458: Michael Collins (Scarborough) v. City of Portland. Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondent, City of Portland discriminated against Complainant, Michael Collins, due to sex, physical and mental disabilities or Whistleblower retaliation. 3 in favor 0 opposed.

E09-0480: Lee Scott (Raymond) v. Securitas Security Services, USA, Inc. (CA): Charles Rival restated the position of Respondent. Attorney Robyn March restated the position of Complainant. Investigator Domini Pham restated the facts of the case.

. Commissioner Perry moved, seconded by Commissioner Chandler to find there are **reasonable grounds** to believe that Securitas Security Services USA, Inc., failed to hire Lee Scott because of his age. 3 in favor 0 opposed.

EXECUTIVE SESSION:

Commissioner Chandler moved, seconded by Commissioner Thompson to move into executive session at 11:35 a.m. to discuss litigation with Commission Counsel pursuant to 1 M.R.S.A.§405(6)(E). 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry, to move out of executive session at 11:53 a.m. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry that the Commission **should not file** a complaint in E09-0419: James Beaulieu v. AFSCME Council 93 as recommended in Litigation Memo dated March 3, 2011. 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry that the Commission **should not file** a complaint in E09:0338: Kelly J. Chipman v. RH Miller, Inc. as recommended in Litigation Memo dated March 3, 2011. 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry that the Commission **should not file** a complaint in E09-0277: Tara Bowen v. InverterCentral.com as recommended in Litigation Memo dated March 3, 2011. 3 in favor | 0 opposed.

Commissioner Chandler moved, Seconded by Commissioner Perry that the Commission **should not file** a complaint in H10-0387: Fournier & Sargent v. Rojas as recommended in the Litigation Memo dated March 3, 2011. 3 in favor / 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry to accept the settlement agreement in complaint in H09-0134-A, B: Sheila Jacobson v. Bangor Housing Authority as recommended in the memo dated April 4, 2011. 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry to accept the settlement agreement in complaint in H09-0572: Tamara Green v. The Housing Foundation and Suska Hayman as recommended in the memo dated March 2, 2011: 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry to dismiss the complaint with prejudice and without costs to either party in H09-0281: Ixchel Maybury. 3 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry to amend the complaint in PA/ED08-0239A: Parents of Minor Student v. RSU 26, et al. to include the claim of sexual orientation discrimination with respect to 6th grade bathroom allegation. 3 in favor | 0 opposed.

At 12:00 Chair Paul Vestal called for a one hour lunch recess.

PA09-0536: Thomas Moulton (Westbrook) v. Cumberland County Sheriff's Dept (Portland): Thomas Moulton restated the position of the Complainant. Attorney Jennifer Peters restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Complainant, Thomas J. Moulton, was unlawfully discriminated against by the Respondent, Cumberland County Sheriff's Department, on the basis of physical disability. 3 in favor | 0 opposed.

E10-0291: Dino Palleschi (Winthrop) v. Maine Homeowner Solutions (Manchester): Attorney Dan Bates restated the position of the Complainant. Attorney Bill Lee restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondent, Maine Homeowner Solutions, LLC discriminated against Complainant, Dino Palleschi, on the basis of age. 3 in favor | 0 opposed.

H10-0434: Jamie Murphy (Bangor) v. Bangor Housing Authority et al (Bangor). Attorney Patricia Ender restated the position of the Complainant. Attorney Ed Gould restated the position of the Respondent. Commissioner Chandler moved seconded by Commissioner Perry that there are not reasonable grounds

to believe that the Respondents, Bangor Housing Authority, Elsie Coffey, Philippe Trottier, and Sally McDonald, discriminated against Complainant, Jamie Murphy, in the terms, conditions or privileges of the rental of a housing accommodation or evicted her because of race or national origin. 3 in favor | 0 opposed.

H10-0431: Lynda Johnson (Bangor) v. Bangor Housing Authority et al (Bangor). Complainant was not present. . Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondents, Bangor Housing Authority, Elsie Coffey, Philippe Trottier, and Sally McDonald, discriminated against Complainant, Lynda Johnson, in the terms, conditions or privileges of the rental of a housing accommodation or evicted her because of race or national origin. 3 in favor | 0 opposed.

E10-0436: Brooks Violette (Sidney) v. The Starting Line (Waterville). Attorney Benjamin Grant restated the position of the Complainant. Attorney David Geller restated the position of the Respondent. Investigator Domini Pham restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that the Respondent, The Starting Line, subjected Complainant, Brooks S. Violette, to a hostile work environment because of her sex. 3 in favor | 0 opposed.

ADJOURN:

There being no further business to come before the Commission, the meeting was adjourned at 2:30 p.m.

CONSENT AGENDA

The consent agenda is a listing of cases scheduled on the Commission's meeting agenda in which there is no written disagreement to the Investigator's recommendation. Commissioners consider these cases without oral argument by the parties.

E08-0652:	Mohamed Mohamed (Lewiston) v. Seaton Corp. d/b/a Staff Management (IL)	NRG
E09-0226:	Rodney Witham (Oakland) v. Parker K. Bailey & Sons, Inc. (Waterville)	RG
E09-0234:	Ann Gove (Caribou) v. Career Systems Development Corp (CA)	RG
E09-0325:	Peter Freeman (Newport) v. Tamco Transportation, Inc. (Presque Isle)	RG
H09-0382:	JackieRay Mays (Chelsea) v. Tisdale Management Company (Clinton)	RG
E09-0418:	Ernesto Duran (S Portland) v. Hannaford Bros. Co. (Portland)	RG/NRG
E09-0492:	Maria Feoktistova (Westbrook) v. Artstock, Inc. (Portland)	RG
E09-0521:	Albert Nutter (Auburn) v. Valley Distributors, Inc. (Oakland)	NRG
ED10-0090:	Ena Bacquie o/b/o Minor (NY) v. Kents Hill School (Kents Hill)	NRG
E10-0318:	Steve O'Leary (Biddeford) v. Maine Turnpike Authority (Portland)	NRG
PA10-0353:	Patrick Nzeyimana (Portland) v. Cumberland County YMCA (Portland)	NRG
H10-0557:	Patrick Nzeyimana (Portland) v. City of Portland	NRG
H10-0596:	Tammy Sanders (Scarborough) v. Seabreeze Motel (Old Orchard Beach)	NRG