



## Maine Human Rights Commission

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### COMMISSION MEETING MINUTES

#### Senator Inn - Boardroom

*19 Union Street ~ Augusta, Maine*

February 12, 2018

Commission Chair Arnold Clark called the meeting to order at 8:30 AM. Present were Commissioners Arnold Clark, Deborah Whitworth, John Norman, Ted Helberg, and Fred Oettinger.

#### AGENDA

Commissioner Whitworth moved, seconded by Commissioner Helberg, to adopt the Agenda and 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 Helberg moved, seconded by Commissioner Oettinger, to adopt the January 8, 2018 Commission meeting minutes. 5 in favor | 0 opposed.

#### ADMINISTRATION

Monthly reports: Executive Director Sneirson discussed reporting on Commission activities from January:

- Personnel: No new activity.
- Compliance: Since the last meeting, there was one unsuccessful conciliation and have been no successful conciliations. Four reasonable-grounds cases remain in active conciliation.
- New Charges: 46 new charges filed.
- Administrative Dismissals: 33 administrative dismissals.
- There were 27 predetermination settlements with benefits of \$453,999 to complainants.

E.D. Sneirson reported that the Maine Legislature still in session, and that the Commission likely will be asked about how various proposals would affect the MHRA or Commission. On behalf of the commission, E.D. Sneirson had been asked for information about one proposal to broaden substance abuse testing in employment to include "impairment" testing; the Commission testified "neither for nor against" the proposal but pointing out how it likely would impact employees with disabilities. The Commission also provided information about a bill to "ban the box", or prohibit employers from asking applicants about criminal conviction/arrest information; the Commission testified "neither for nor against" that proposal - which was pared down to apply only to public employers and initial applications - as well. She also noted that the Commission will be proposing changes to the Commission procedural rule.

The Commission took a ten-minute break at 8:35 AM.

At 8:45 AM Commission Chair Arnold Clark began the case hearing agenda.

## CASES VOTED ON

PA16-0460: *Wathiq Majeed (Portland) v. Goold Health Systems (Augusta)*. Complainant was not present. Commissioner Helberg moved, seconded by Commissioner Oettinger, to find no reasonable grounds to believe that Respondent Goold Health Systems discriminated against Complainant Wathiq Majeed on the basis of disability, and no reasonable grounds to believe that Respondent Gould Health Systems retaliated against Complainant Wathiq Majeed for asserting rights under the MHRA. 4 in favor | 0 opposed | 1 recused (Whitworth recused).

E16-0025: *Steven A. Feite (Bucksport) v. Waldo County General Hospital (Belfast)*. Steven Feite restated his position as the Complainant. Attorney Nicole Lorenzotti restated the position of the Respondent. Investigator Stuart Evans restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Helberg, to find no reasonable grounds to believe that Waldo County General Hospital unlawfully retaliated against Steven A. Feite in violation of the WPA, and no reasonable grounds to believe that Waldo County General Hospital discriminated against Steven A. Feite on the basis of disability. 5 in favor | 0 opposed.

E16-0053: *Lynda Lakin (Auburn) v. Paine Products, Inc. (Auburn)*. Attorney Kelly Hoffman restated the position of the Respondent. Attorney Sonia Buck restated the position of the Complainant. Chief Investigator Alice Neal restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Oettinger, to find **reasonable grounds** to believe that Paine Products, Inc. retaliated against Lynda Lakin in violation of the Maine Whistleblowers' Protection Act when it discharged her. 3 in favor | 2 opposed (Norman, Whitworth opposed).

E16-0054: *Ethan Frasier (Auburn) v. Paine Products, Inc. (Auburn)*. Attorney Kelly Hoffman restated the position of the Respondent. Attorney Sonia Buck restated the position of the Complainant. Chief Investigator Alice Neal restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Paine Products, Inc. retaliated against Ethan Frasier in violation of the Maine Whistleblowers' Protection Act when it discharged him. 2 in favor | 3 opposed (Clark, Oettinger, Helberg opposed); the motion failed. Commissioner Helberg moved, seconded by Commissioner Oettinger, to find **reasonable grounds** to believe that Paine Products, Inc. retaliated against Ethan Frasier in violation of the Maine Whistleblowers' Protection Act when it discharged him. 3 in favor | 2 opposed (Whitworth, Norman opposed).

At 10:53 AM Chair Clark called for a 5 minute recess.

E16-0104: *Richard A. Carpenter (New Limerick) v. Tate & Lyle (Houlton) and Lance Horn (Houlton)*. Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Oettinger, to find no reasonable grounds to believe that Respondents Tate & Lyle and/or Lance Horn retaliated against Complainant Richard A. Carpenter for engaging in WPA-protected activity. 5 in favor | 0 opposed.

EDU16-0274: *Michael Greene o/b/o minor child (Windham) v. Friends School of Portland (Cumberland Foreside)*. Attorney Matt Raynes restated the position of the Respondent. Michael Green restated his position as the Complainant. Investigator Robert Beauchesne restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find that there are **reasonable grounds** to believe that the Friends School of Portland unlawfully discriminated against Complainant Michael Greene o/b/o minor child on the basis of disability (denial of reasonable accommodation; denial of access to its programs). 3 in favor | 2 opposed (Arnold, Norman opposed).

E16-0444A/B: *Ellen D. Wood (Chelsea) v. Carrols, LLC (Syracuse, NY) & Carrols Corporation (Syracuse, NY)*. Attorney Susan Farnsworth restated the position of the Complainant. Respondent was not present. Investigator Stuart Evans restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Carrols, LLC or Carrols Corporation discriminated against Ellen D. Wood by failing to promote her on the basis of disability and there are no reasonable grounds to believe that Carrols, LLC or Carrols Corporation discriminated against Ellen D. Wood in employment on the basis of age or sex. 5 in favor | 0 opposed.

PA16-0478: *Kenneth A. Capron (Portland) v. East Point Eldercare Services d/b/a Home Instead Senior Care No. 499 (Kennebunk)*. Kenneth Capron restated his position as the Complainant. Respondent was not present. Investigator Robert Beauchesne restated the facts of the case. Commissioner Norman moved, seconded by Commissioner Whitworth to find no reasonable grounds to believe that Respondent East Point Eldercare Services d/b/a Home Instead Senior Care No. 499 discriminated against Complainant Kenneth A. Capron due to his disability, and there are no reasonable grounds to believe that Respondent East Point Eldercare services d/b/a Home Instead Senior Care No. 499 retaliated against Complainant Kenneth A. Capron for engaging in any MHRA-protected conduct. 4 in favor | 0 opposed | 1 recused (Clark recused).

## **EXECUTIVE SESSION**

At 12:40 PM , Commissioner Helberg moved, seconded by Commissioner Norman, 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 12:50 PM, Commissioner Whitworth moved, seconded by Commissioner Norman, to come out of executive session. 5 in favor | 0 opposed.

## **LITIGATION**

Commissioner Whitworth moved, seconded by Commissioner Norman, that the Commission should not proceed with litigation in the reasonable-grounds case *Mudie vs. Dollar Tree* (MHRC #E16-0145). 5 in favor | 0 opposed.

Commissioner Whitworth moved, seconded by Commissioner Helberg, to approve the proposed settlement agreement in the reasonable-grounds case *Faile vs. Doyer* (MHRC #H16-0036, Court Docket #KEN-CV-17-169). 5 in favor | 0 opposed.

At approximately 12:55 PM, Commissioner Clark adjourned the meeting.

## 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.

E16-0022	John L. Francis (Eastport) v. Calais School Department (Calais)	NRG
E16-0056	Nancy L. Nadeau Novotny (Biddeford) v. Dayton Consolidated School (Biddeford)	NRG
E16-0097	Judith L. Brogden (Union) v. Machias Savings Bank (Machias)	NRG
H17-0409 A+B	Sallie A. McCourt (Brunswick) v. Liberty Management d/b/a Bay Bridge Estates (Gray) & Richard Hathaway (Brunswick)	NRG
H17-0433 A+B	Ricky Emery (Lincoln) and Marcy Emery (Lincoln) v. Ken Moody (Lincoln) and Craig Dube, DBA Steamstone LLC (Lincoln)	NRG
H17-0441 A+B	Gaynor Fitch (Norway) v. Robert Bahre (Oxford), Sandra Bahre (Oxford) & Madison Avenue Properties (Oxford)	NRG

### TABLED

E16-0024	Trista E. Collins (Windham) v. SOM/Dept. of Health & Human Services (Augusta)
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