



# Maine Human Rights Commission

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EXECUTIVE DIRECTOR

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## COMMISSION MEETING MINUTES

### Senator Inn - BOARDROOM

284 Western Ave ~ Augusta, Maine 04330

May 13, 2019

Commission Chair Arnold Clark chaired the meeting and called it to order at 8:30 AM. Also present were Commissioners Deborah Whitworth, John Norman and Ted Helberg.

### 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). 4 in favor | 0 opposed.

### MINUTES

Commissioner Helberg moved, seconded by Commissioner Whitworth, to adopt the April 8, 2019 Commission meeting minutes. 4 in favor | 0 opposed.

### ADMINISTRATION

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

- Personnel: The report was presented and placed on file. Alex Brindley will be starting as the Commission's newest investigator mid-May.
- Compliance: Since the last meeting, there were 3 unsuccessful conciliations and 1 successful conciliation. 2 reasonable-grounds cases remain in active conciliation.
  - With respect to successful conciliation, Commissioner Helberg moved, seconded by Commissioner Clark, to approve the conciliation agreement in Schreiber v. The Medicine Shoppe (E17-0514). 4 in favor | 0 opposed.
  - With respect to conciliation agreements that have been fully implemented, Commissioner Helberg moved, seconded by Commissioner Whitworth, to dismiss the reasonable-grounds cases Helen Crabtree v. Central Maine Medical Center (E16-0181) and Amanda Dube v. Red's Pizza and Grill (E17-0162). 4 in favor | 0 opposed.
- New Charges: 48 new complaints filed in April.
- Administrative Dismissals:

- o The Commission voted to issue 44 administrative dismissals with findings of no reasonable grounds at our April meeting.
- o With respect to new administrative determinations to be approved (see listing on page 5), Commissioner Norman moved, seconded by Commissioner Whitworth, to approve the administrative dismissal of 14 cases listed on the Commission agenda with a “no reasonable grounds” determination in each. 4 in favor | 0 opposed.
  - There were 17 predetermination settlement agreements.
  - Litigation was to be discussed after executive session.

### New Business

Executive Director Sneirson discussed activity related to the Commission or Maine Human Rights Act at the Legislature, including public hearings last week on non-agency bills related to the MHRA and upcoming public hearings on Commission agency bills on May 20. E.D. Sneirson also shared that no Commissioner appointments have been forthcoming from the Office of the Governor.

At 8:41 AM Commissioner Clark called for a 4 minute recess.

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

### **CASES VOTED ON**

E17-0087: Kimberly A. Whitmore (Dedham) v. Maine Course Hospitality Group/Courtyard by Marriott (Bangor). Attorney Jeremiah Rancourt restated the position of the Complainant. Attorney Tawny Alvarez restated the position of the Respondent. Chief Investigator Alice Neal restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find there are No Reasonable Grounds to believe that Maine Course Hospitality Group/Courtyard by Marriott discriminated against Complainant Kimberly A. Whitmore when it terminated her employment, and No Reasonable Grounds to believe that Respondent Maine Course Hospitality Group/Courtyard by Marriott retaliated against Complainant Kimberly A. Whitmore when it terminated her employment. 4 in favor | 0 opposed.

PA17-0128-AB: Daniel Bachelder (Temple) v. Central Maine Medical Center (Lewiston) & Nina Edwards, M.D. (Lewiston). Attorney Susan Farnsworth and Complainant Daniel Bachelder both restated the position of Complainant. Attorney Robert P. Hayes restated the position of the Respondents. Chief Investigator Alice Neal restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Helberg, to find No Reasonable Grounds to believe that Central Maine Medical Center and/or Nina Edwards, M.D. discriminated against Daniel Bachelder based on his sex or disability in the terms and conditions of his treatment in a place of public accommodation. 4 in favor | 0 opposed.

E17-0142\*: David W. Allen (Chelsea, ME) v. Universal Protection (Boston, MA). Respondent was not present. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find there are **Reasonable Grounds** to believe that Universal Protection discriminated against David W. Allen based on his perceived disability in the terms and conditions of his employment, and No Reasonable Grounds to believe that Universal Protection retaliated against David W. Allen in violation of the WPA and/or MHRA. 4 in favor | 0 opposed.

E17-0392: Richard Dailey (Naples) v. The Home Depot (Atlanta, GA). Richard Dailey restated his position as the Complainant. Respondent was not present. Investigator Jane O'Reilly restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Whitworth, to table the case and reopen it for additional investigation. 2 in favor | 2 opposed (Norman and Clark opposed); the motion did not pass. Commissioner Norman moved, seconded by Commissioner Clark, to find No Reasonable Grounds to believe that The Home Depot retaliated against Richard Dailey for engaging in WPA - or MHRA-protected activity. 2 in favor | 2 opposed. (Helberg and Whitworth opposed); the motion did not pass. Commissioner Whitworth moved, seconded by Commissioner Helberg, to find Reasonable Grounds to believe that The Home Depot discriminated against Richard Dailey on the basis of age or disability. 2 in favor | 2 opposed (Clark and Norman opposed); the motion did not pass. With no motion passed, findings on both cases were no reasonable grounds to believe unlawful activity occurred.

E17-0393: Ken T. Greene (Portland) v. A-COPI, LLC (Gardiner). Complainant was not present. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find No Reasonable Grounds to believe that A-COPI, LLC discriminated against Ken Greene on the basis of religion and No Reasonable Grounds to believe that A-COPI, LLC retaliated against Ken Greene for engaging in MHRA-protected activity. 4 in favor | 0 opposed.

E17-0437: Deanne Mansell (Hermon) v. ESOCO Orrington, LLC [aka Penobscot Energy Recovery Company] (Orrington). Attorney Samuel S. Riotte restated the position of the Complainant. Attorney Ryan Dumais restated the position of the Respondent. Investigator Jane O'Reilly restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Norman, to find No Reasonable Grounds to believe that ESOCO Orrington LLC [aka Penobscot Energy Recovery Company] discriminated against Deanne Mansell, on the basis of disability (reasonable accommodation, discharge) and No Reasonable Grounds to believe that ESOCO Orrington LLC [aka Penobscot Energy Recovery Company] retaliated against Deanne Mansell, for engaging in WPA-protected activity. 4 in favor | 0 opposed.

E18-0041: Bruce Richardson (Auburn) v. J A D Franchises d/b/a Little Caesars (Auburn). Complainant was not present. Commissioner Norman moved, seconded by Commissioner Whitworth, to find No Reasonable Grounds to believe that J A D Franchises d/b/a Little Caesars discriminated against Bruce Richardson in employment on the basis of age and/or disability and No Reasonable Grounds to believe that J A D Franchises d/b/a Little Caesars retaliated against Bruce Richardson for engaging in WPA or MHRA protected activity. 4 in favor | 0 opposed.

H18-0466\*: Patricia Kalar (Guardian) and O/B/O Son (Ward) (Buxton) v. Maine State Housing Authority (Augusta). Respondent did not appear. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find there are No Reasonable Grounds to believe that Maine State Housing Authority discriminated against Patricia Kalar (Guardian) and O/B/O Son (Ward) on the basis of disability, and **Reasonable Grounds** to believe that Maine State Housing Authority unlawfully interfered with Patricia Kalar (Guardian) and O/B/O Son (Ward) in the exercise of rights protected by the MHRA. 4 in favor | 0 opposed.

H18-0490-AB: Jessica Manfre & Philip Manfre (Augusta) v. 136 Old Winthrop Road Condo Association, Ashley Siele, & Bruce Godbout (Augusta). Philip Manfre restated the position of the Complainants. Attorney David M. McCullum restated the position of Respondent 136 Old Winthrop Road Condo Association. Attorney Laura Maher restated the position of Respondents Ashley Siele and Bruce Godbout. Chief Investigator Alice A. Neal restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Helberg, to find No Reasonable Grounds to believe that 136 Old Winthrop Road Condo Association, Ashley Siele,

and/or Bruce Godbout discriminated against Jessica Manfre or Philip Manfre on the basis of disability or association with a person with a disability in the terms and conditions of their housing by denying Jessica Manfre reasonable accommodations, and No Reasonable Grounds to believe that 136 Old Winthrop Road Condo Association, Ashley Siele, and/or Bruce Godbout interfered with Jessica Manfre or Philip Manfre in their right to a housing accommodation free from discrimination under the MHRA. 4 in favor | 0 opposed.

H18-0496-ABC\*: Terry Asselin (Portland) v. MPB Properties (Portland), Leonard Colello (Portland), & Burnham Towers LLC (Scarborough). Attorney Stephen A. Bell and Michael Burnham restated the position of Respondents MPB Properties and Burnham Towers LLC. Attorney Michael Whipple restated the position of Respondent Leonard Colello. Terry Asselin restated her position as the Complainant. Investigator Jane O'Reilly restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Whitworth, to find **Reasonable Grounds** to believe that Respondents MPB Properties, Leonard Colello, and Burnham Towers LLC discriminated against Terry Asselin on the basis of disability by denying her the use of an assistance animal, and No Reasonable Grounds to believe that Respondents MPB Properties and Burnham Towers LLC retaliated against Terry Asselin for engaging in MHRA-protected conduct. 4 in favor | 0 opposed.

H18-0501-AB: Chrisnel Merard (Portland) v. Bayside Village (Portland) & Blue Atlantic Portland (Portland). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Norman, to find there are No Reasonable Grounds to believe that Respondents Bayside Village and Blue Atlantic Portland discriminated against Complainant Chrisnel Merard on the basis of race and/or color by subjecting him to hostile housing environment, and No Reasonable Grounds to believe that Respondents Bayside Village and Blue Atlantic Portland discriminated against Complainant Chrisnel Merard on the basis of race and/or color with respect to the terms and conditions of his housing. 4 in favor | 0 opposed.

## **EXECUTIVE SESSION**

At 12:20 PM, Commissioner Norman moved, seconded by Commissioner Helberg, 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 12:58 PM, Commissioner Whitworth moved, seconded by Commissioner Norman, to come out of executive session. 4 in favor | 0 opposed.

At approximately 12:59 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.

E17-0177: Philip K. Luc (Augusta) v. Cafua Management (Augusta) NRG  
PA17-0218: James T. Curtis, Jr. (Garland) v. Robert Clinton, M.D. (Windham), Wendy Riebe, R.N. (Windham), Hope Freeman NRG

ABCDEF	LeBlanc, C.N.P. (Windham), Deputy Warden Glenn Brown (Windham), Deputy Warden Susan Carr (Windham), And Warden Scott R. Landry (Windham)	
<b>E17-0346*:</b>	<b>Kristin Robinson (Portland) v. Emilio Estates, Inc. (East Corinth)</b>	<b>RG</b>
E17-0361:	Dawn Crandall (Warren, ME) v. Lazyone, Inc. (North Warren, UT)	NRG
E17-0375:	Andrew C. Wiesner (Dover, NH) v. Pingree Boiler Repair (Saco)	NRG
E17-0475:	Burleigh L. Witham (Homosassa, FL) v. Cleaves Farms (Sangerville)	NRG
<b>PA17-0500*:</b>	<b>Karen Wood (Columbia, MD) v. Jacqueline Bevins (Ogunquit, ME) and Jackie's Too (Ogunquit, ME)</b>	<b>RG</b>
<b>AB</b>		
E17-0543:	Debora Strout (Portland) v. Gift Craft (Brampton, ON, CAN)	NRG
E18-0104:	June Sapiel (Indian Island) v. Tom Scala/Bowlin Lodge (Patten)	NRG
<b>AB</b>		
E18-0105:	James Pardilla (Old Town) v. Bowlin Lodge/Tom Scala (Patten)	NRG
<b>AB</b>		
H19-0001:	Erik Phillip Abbey (Brunswick) v. Ryan Priest (Portland)	NRG
H19-0002:	Erik Phillip Abbey (Brunswick) v. Sam Miller (Durham)	NRG

#### **TABLED**

E17-0407:	Michael Connolly (Kennebunk) v. Postal Fleet Services, Inc. (St. Augustine, FL)	NRG
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#### **ADMINISTRATIVE DETERMINATIONS**

PA18-0310	Thomas Long (Dexter) v. Mayo Regional Hospital/R.N. Nursing Supervisor ("Darcy") (Dover Foxcroft)	NRG
E18-0323	Karen A. Lacy (Turner) v. MSAD #52 (Turner)	NRG
PA18-0387	Mark Chapman (Portland) v. Maine Care Member Services (Augusta)	NRG
E18-0393	Tammy Cloney (Scarborough) v. Gregory Fox, DC (Falmouth)	NRG
PA18-0396	Mark Chapman (Portland) v. City of Portland/City Hall (Portland)	NRG
E18-0399	Shanon Hafford (Fort Kent) v. Northern Maine General (Eagle Lake)	NRG
E18-0417	Precious Dean (Bangor) v. Eastern Maine Medical Center (Bangor)	NRG
H19-0095	Floyd S. Smart (Bangor) v. Kyra Walker (Portland)/Cullen Ryan (Portland)	NRG
<b>AB</b>		
PA19-0096	Floyd S. Smart (Bangor) v. Doctor Eve Wolensky (Bangor)	NRG
H19-0101-A	Jeffery Friedman (Bangor) v. First Street Properties LLC (Bangor)	NRG
E19-0106	William Schuyler (Mercer) v. Auburn Concrete (Auburn)	NRG
PA19-0125	Beverly A. Lavigne (Stratton) v. Joseph M. O'Donnell (Augusta)/Donald Marden (Portland)	NRG
<b>AB</b>		
PA19-0126	Michael S. Grendall (Dixmont) v. Colonel John E. Cote (Augusta), Major Christopher Grotten (Augusta), and A,B,C Maine State Police (Augusta)	NRG
E19-0136	Theresa Hyatt (Gorham) v. Italian Heritage Center (Portland)	NRG