



Maine Human Rights Commission

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Amy M. Sneirson
EXECUTIVE DIRECTOR

Barbara Archer Hirsch
COMMISSION COUNSEL

COMMISSION MEETING MINUTES MARCH 14, 2022 MEETING

via ZOOM

Commissioner Deborah Whitworth chaired the meeting and called it to order at 8:30 AM. Also present were Commissioners Edward David, Jill Duson, and Julie O'Brien. American Sign Language interpreters were present and interpreting the meeting.

Before Commissioners reviewed the Hearing and Consent Agendas, Executive Director Amy Sneirson asked them to review a complainant's request to withdraw her complaint in the first case on the morning's Hearing Agenda, as a vote to grant that request would require amending the Hearing Agenda. Commissioner David moved, seconded by Commissioner Whitworth, to allow Joanne Oakes to withdraw her complaint in H/PA21-0402 (Joanne Oakes v. Brewer Center for Health and Rehabilitation). 4 in favor | 0 opposed.

AGENDA

Commissioner O'Brien moved, seconded by Commissioner David, to adopt the Agenda as amended and Consent 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 David moved, seconded by Commissioner Whitworth, to adopt the February 14, 2022 Commission Meeting Minutes. 4 in favor | 0 opposed.

ADMINISTRATION

E.D. Sneirson reported on the following Commission activities:

Monthly reports:

- Personnel: Ongoing staffing shortages continue to have a substantial impact on the agency's operations.
- Compliance: Since the last meeting, there were five unsuccessful conciliation and no successful conciliations. Five reasonable grounds cases remain in active conciliation.
- New Charges: Official reports for new charges remain unavailable, but the estimated number of new charges from 1/1/2022 to 2/2/2022 is 70.
- Administrative Dismissals: Official reports for administrative dismissals remain unavailable, but the estimated number of administrative dismissals between 1/1/2022 and 2/28/2022 is 24.
- Pre-determination settlements: Official reports for settlements remain unavailable, but the estimated number of settlements and withdrawals with benefits from 1/1/2022 to 2/28/2022 is 21.

NEW BUSINESS:

ED Sneirson noted that the Legislature's Supplemental Budget process is ongoing, with an initial presentation of the Commission's agency budget on March 4, 2022 and a work session on March 15, 2022. Additionally, since the last Commission meeting, the Legislature's Judiciary Committee has completed two statutorily-required reviews of the Commission, one required by the Government Evaluation Act and one required for all quasi-independent agency

procurements and contracts. In both reviews, the Judiciary Committee found that the Commission met all applicable requirements.

At approximately 8:40 AM, Commissioner Ashby arrived.

At approximately 8:41 AM, the Commission completed the business portion of the agenda, and American Sign Language interpreting ceased.

HEARING AGENDA

At 8:45 AM, Commissioner Whitworth began the case hearing agenda for the Morning Session.

E20-0003: Gary Upham (Thomaston) v. Winthrop School Department. (Winthrop). Attorney Valerie Wicks restated the position of Complainant Gary Upham. Attorney Michael Buescher restated the position of Respondent Winthrop School Department. Investigator Robert Beauchesne reviewed a prior MHRC investigator's report and recommendations. Commissioner David moved, seconded by Commissioner Ashby, to find no reasonable grounds to believe that the Winthrop School Department discriminated against Gary Upham based on his age, and the complaint should be dismissed. 5 in favor | 0 opposed.

PA20-0266(A-F): Donald Boyce (Warren) v. Maine Department of Corrections (Augusta), Randall Liberty (Augusta), Matthew Magnusson (Augusta), Well Path (Augusta), Dr. Robert Clinton (Augusta), and Richard Liberty (Augusta) Donald Boyce restated his position as the Complainant. Assistant Attorney General Jill O'Brien restated the position of Respondents Maine Department of Corrections, Randall Liberty, and Matthew Magnussen. Attorney Elizabeth Peck restated the position of Respondents Well Path, Dr. Robert Clinton and Richard Liberty. Investigator Alex Brindley reviewed her investigator's report and recommendations. Commissioner O'Brien moved, seconded by Commissioner Duson, to find no reasonable grounds to believe that Maine Department of Corrections, Randall Liberty, Matthew Magnusson, Well Path, Dr. Robert Clinton, and/or Richard Liberty discriminated against Donald Boyce based on his disability, and the complaint should be dismissed. 4 in favor | 0 opposed | 1 recused (Ashby recused).

E20-0050-ABC: Tom Connors (Augusta) v. Mike Parks (Augusta), Substance Abuse and Mental Health Services (Augusta), Department of Health and Human Services (Augusta). Tom Connors restated his position as the Complainant. Assistant Attorney General Valerie Wright restated the position of Respondents. Investigator Jane O'Reilly reviewed her investigator's report and recommendations. Commissioner David moved, seconded by Commissioner Duson, to find no reasonable grounds to believe that Mike Parks, Substance Abuse and Mental Health Services, and/or Department of Health and Human Services discriminated against Tom Connors on the basis of age and/or sex, and the complaint should be dismissed. 5 in favor | 0 opposed.

E20-0465A/B: Amanda Edwards (Lisbon) v. Stephen Hilton d/b/a West End Laundromat (Portland) and Camp, LLC (Portland). Attorney Erik Peters restated the position of Complainant. Attorney Kathleen Wade restated the position of Respondents. Investigator Jane O'Reilly reviewed her investigator's report and recommendations. Commissioner Ashby moved, seconded by Commissioner David, to find **reasonable grounds** to believe that Stephen Hilton d/b/a West End Laundromat and/or Camp, LLC retaliated against Amanda Edwards for engaging in WPA-protected activity, and that conciliation should be attempted. 4 in favor | 1 opposed (O'Brien opposed).

E21-0075: Brian Addario (South Portland) v. Maine Correctional Center (Windham). Brian Addario restated his position as the Complainant. Assistant Attorney General Kelly Morrell restated the position of Respondent. Investigator Jane O'Reilly reviewed her investigator's report and recommendations. Commissioner David moved, seconded by Commissioner Ashby, to find no reasonable grounds to believe that Maine Correctional Center discriminated against

Brian Addario on the basis of disability (denial of a reasonable accommodation) and no reasonable grounds to believe that Maine Correctional Center retaliated against Brian Addario for engaging in MHRA-protected activity, and the complaint should be dismissed. 5 in favor | 0 opposed.

EXECUTIVE SESSION

At approximately 11:10 AM, Commissioner Whitworth 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 12:01 PM, Commissioner Ashby moved, seconded by Commissioner Whitworth, to come out of Executive Session. 5 in favor | 0 opposed.

With respect to litigation, Commissioner David moved, seconded Commissioner Ashby, to not litigate the reasonable-grounds case of Valencia Dumas v United Parcel Service (South Portland) (E19-0406-A), which was not resolved via conciliation. 5 in favor | 0 opposed.

HEARING AGENDA

At approximately 12: 05 PM, Commissioner Whitworth began the case hearing agenda for the Afternoon Session.

E20-0083-A/B/C: Dr. Dung Ba Nguyen (Falmouth) v. MaineGeneral Medical Center (Augusta), Radiation Oncology Associates, P.A. (China) & Glenn A. Healey, M.D. (China). Attorney David Webbert restated the position of the Complainant. Attorney Katy Rand restated the position of Respondent MaineGeneral Medical Center. Attorney Roger Katz restated the position of Respondents Radiation Oncology Associates and Glenn Healey. Investigator Alex Brindley reviewed a prior MHRC investigator's report and recommendations. Commissioner Ashby moved, seconded by Commissioner O'Brien, to find no reasonable grounds to believe that MaineGeneral Medical Center, Radiation Oncology Associates, P.A., and/or Glenn A. Healey, M.D. discriminated against Dr. Dung Ba Nguyen on the basis of race, color, national origin, and/or ancestry in the terms and conditions of his employment (hostile work environment and constructive discharge), and no reasonable grounds to believe MaineGeneral Medical Center, Radiation Oncology Associates, P.A., and/or Glenn A. Healey, M.D. retaliated against or interfered with Dr. Dung Ba Nguyen's employment for engaging in WPA- or MHRA-protected activity, and the complaint should be dismissed. 4 in favor | 1 opposed (Duson opposed).

E20-0225: Sarah Tatlock (West Gardiner) v. Department of Health and Human Services (Augusta). Sarah Tatlock restated her position as the Complainant. Assistant Attorney General Valerie Wright restated the position of the Respondent. Investigator Kit Thomson Crossman reviewed their investigator's report and recommendations. Commissioner David moved, seconded by Commissioner Duson, to find no reasonable grounds to believe that the State of Maine Department of Health and Human Services discriminated against Sarah Tatlock on the basis of disability (reasonable accommodation, hostile work environment); and no reasonable grounds to believe that the State of Maine Department of Health and Human Services retaliated against Sarah Tatlock for engaging in WPA- or MHRA-protected activity; and no reasonable grounds to believe that the State of Maine Department of Health and Human Services retaliated against Sarah Tatlock for a prior workers' compensation claim, and the complaint should be dismissed. 5 in favor | 0 opposed.

E20-0344: Bobby Mills (Biddeford) v. Volunteers of America Northern New England, Inc. (Brunswick). Complainant was not present. Commissioner Duson moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Volunteers of America New England discriminated against Bobby Mills on the basis of age and/or disability, and the complaint should be dismissed. 5 in favor | 0 opposed.

H/PA21-0422*: Felicia King (Hancock) v Sunrise Assisted Living (Jonesport). Attorney John Hamer restated the position of the Respondent. Attorney Ben Klein restated the position of the Complainant. Investigator Kit Thomson Crossman reviewed their investigator's report and recommendations. Commissioner David moved, seconded by Commissioner Duson, to find **reasonable grounds** to believe that Sunrise Assisted Living, LLC discriminated against Felicia Marie King on the basis of sex and sexual orientation or gender identity, and conciliation should be attempted. 3 in favor | 2 opposed (Whitworth, O'Brien opposed).

EXECUTIVE SESSION

At approximately 2:03 PM, Commissioner Whitworth moved, seconded by Commissioner Ashby, 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 2:32 PM, Commissioner Ashby moved, seconded by Commissioner David, to come out of Executive Session. 5 in favor | 0 opposed.

At approximately 2:33 PM, Commissioner David moved, seconded by Commissioner Ashby, to adjourn the meeting. 5 in favor | 0 opposed.

At approximately 2:34 PM the meeting was adjourned.

CONSENT AGENDA

E20-0089	Stacey Dorr (Albion) v. Kennebec Equipment Rental Co., LLC (Fairfield)	NRG
E20-0188	Deborah Van Gorder (North Berwick) v. Stonewall Kitchen (York)	NRG
E21-0031	Lisa M. Lorenzo (Presque Isle) v. Ruby Tuesday, Inc. (Maryville, TN)	NRG
H21-0357-A&B	Holly Mazzairelli (Stillwater) v. Geraldine Dorsey (Bangor) & Kathryn Hughes Associates, Inc. (Bangor)	NRG

TABLED

E21-0181*	Deryk Martin (Bowdoin) v. Paragon Systems, Inc. (Manchester, NH)
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**Indicates a case in which a "reasonable grounds" finding is or was recommended.*