

**MAINE-
HUMAN
RIGHTS
COMMISSION**

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Executive Director
PATRICIA E. RYAN

Commission Counsel
JOHN P. GAUSE

July 2, 2008

[REDACTED]

Re: [REDACTED] 0078, 0079, James Still v. Escabiquis Court
[REDACTED]

PA08-0078, 0078-A, 0079, 0079A

Dear Ms. [REDACTED]

Please be advised that Respondents' request for administrative dismissal of the above-referenced complaints of discrimination is hereby denied.

The terms of the Maine Human Rights Act apply to the allegations in these complaints. The Act defines "place of public accommodation" to include a courthouse. 5 M.R.S.A. § 4553(8)(M). It covers discrimination with respect to "any of the accommodations, advantages, facilities, goods, services or privileges of public accommodation." 5 M.R.S.A. § 4592(1). It defines unlawful activity as including, "[a] failure to make reasonable modifications in policies, practices or procedures, when modifications are necessary to afford the goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities." 5 M.R.S.A. § 4592(1)(B). It also prohibits a "public entity" from discriminating against a person with a disability. 5 M.R.S.A. § 4592(1)(E).

While I am sensitive to the separation of powers argument you raise, I am unable to dismiss a case that falls within the coverage of the Maine Human Rights Act on that basis without case law supporting your position. The *Montgomery* case is distinguishable in that that case involved the Superior Court passing on an issue within the sole jurisdiction of the Maine Supreme Judicial Court whereas this case alleges violations of the Maine Human Rights Act by the Superior and District Courts.

With respect to judicial immunity, I have decided that that is not a proper basis for dismissal of these complaints because, as you acknowledge, Complainant may still pursue injunctive relief even if monetary damages are not available. See *Pulliam v.*

MHRC Commission Counsel Memo 7/2/2008

Susan Herman, AAG

July 2, 2008

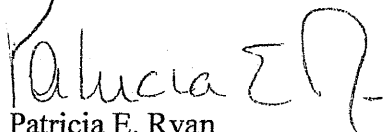
Page 2 of 2

Allen, 104 S.Ct. 1970, 1981 (1984) (superseded by statute); *Rafford v. Snohomish County*, 2008 WL 346386, *2 (W.D.Wash. 2008).

Finally, the Act does allow claims against individuals. It specifically covers discrimination by “any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation.” 5 M.R.S.A. § 4592(1) (emphasis added).

Accordingly, the request for dismissal is denied. Please forward Respondents’ answers to the Commission’s information and document requests by August 1st.

Sincerely,



Patricia E. Ryan
Executive Director

cc: [REDACTED]