



Maine Human Rights Commission

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COMMISSION MEETING MINUTES MAY 22, 2023 MEETING

Held in Hybrid Format - In Person (19 Union Street, Augusta, Maine) and via ZOOM

Commissioner Jefferson Ashby chaired the meeting and called it to order at 8:34 AM. Also present were Commissioners Edward David, Julie O'Brien, Thomas Douglas, and Mark Walker.

AGENDA

Commissioner David moved, seconded by Commissioner O'Brien, to adopt the Agenda and Consent Agenda 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 Walker moved, seconded by Commissioner Douglas, to adopt the April 2023 Commission Meeting Minutes. 5 in favor | 0 opposed.

ADMINISTRATION

Monthly reports: Executive Director Sneirson discussed reporting on the following Commission activities:

- Personnel: A report was placed on file.
- Compliance: Since the last meeting, there were four unsuccessful conciliations and one successful conciliation, with four reasonable-grounds cases remaining in active conciliation.
 - Commissioner Ashby moved, seconded by Commissioner David, to accept the conciliation agreement in the reasonable-grounds case *Casavant v University of Maine System* (ED/PA20-0470). Upon reflection, Commissioner Ashby withdrew his motion, and Commissioner David withdrew his second of the motion.
 - Commissioner David moved, seconded by Commissioner O'Brien, to accept the conciliation agreement in the reasonable-grounds case *Casavant v University of Maine System* (ED/PA20-0470). 4 in favor | 0 opposed | 1 abstained (Ashby).
- New Charges: 39 new complaints filed in April 2023.
- Administrative Dismissals: 14 administrative dismissals issued in April 2023
- Pre-determination settlements: one with benefits to complainants in April 2023.

New Business:

E.D. Sneirson and Commissioners discussed ongoing matters at the Legislature, including bills for which the Commission provides information and new Commission initiatives being considered for inclusion in the Biennial Budget. E.D. Sneirson reported that the Commission's high numbers of housing cases has required the Commission to decrease its annual contract with the EEOC this year.

At approximately 8:55 AM, Commissioner Ashby began the Hearing Agenda.

CASES VOTED ON

H22-0380-A-K: Linda Athearn (Camden) v. Melissa Martinez, Teresa McDonald, Megunticook Housing Associate, LP Karen Nolan, Joanne Miller, Ramona Benner, Ninon Lohnes, Jeannie Sparhawk, Mary Paulsen, Alice Berry & Kevin Walsh (all from Camden). Linda Athearn presented her position as the Complainant. Attorney Mark Franco presented the positions of Respondents Melissa Martinez, Teresa McDonald, and Megunticook Housing Associate, LP. Deputy Commission Counsel Kit Thomson Crossman presented/answered Commissioner questions about the investigation and report prepared by a former investigator. Commissioner David moved, seconded by Commissioner Walker, to find that there are no reasonable grounds to believe that Melissa Martinez, Teresa McDonald, Megunticook Housing Associate, LP Karen Nolan, Joanne Miller, Ramona Benner, Ninon Lohnes, Jeannie Sparhawk, Mary Paulsen, Alice Berry, and/or Kevin Walsh discriminated against Linda Athearn on the basis of disability, and the complaint should be dismissed in accordance with 5 M.R.S. § 4612(2). 5 in favor | 0 opposed.

H22-0418-A/B/C/D: Deril Stubenrod (Belgrade) v. George MacDonald (Homosassa, FL), Tonia Boterf (Homosassa, FL), Jeffrey Baldwin (Belgrade) & Victoria Pease (Belgrade). Complainant did not appear. Commissioner David moved, seconded by Commissioner Ashby, to find that there are no reasonable grounds to believe that George MacDonald, Tonia Boterf, Jeffrey Baldwin, or Victoria Pease discriminated against Deril Stubenrod on the basis of sexual orientation or gender identity, and the complaint should be dismissed in accordance with 5 M.R.S. § 4612(2). 5 in favor | 0 opposed.

E21-0161: Pamela Prodan (Wilton) v. Franklin County (Farmington). Attorney Susan Farnsworth presented the position of Complainant Pamela Prodan. Attorney Paige Eggleston presented the position of Respondent Franklin County. Investigator Robert Beauchesne presented/answered Commissioner questions about the investigation and report. Commissioner O'Brien moved, seconded by Commissioner Walker, to find that there are no reasonable grounds to believe that Franklin County retaliated against Pamela Prodan for engaging in WPA-protected activity, and the complaint should be dismissed in accordance with 5 M.R.S. § 4612(2). 4 in favor | opposed | 1 abstained (David).

After learning that the Complainant in H22-0418 had been trying to gain access to the meeting via Zoom but had been prevented from doing so due to technology issues. Commissioner Ashby moved, seconded by Commissioner David, to reconsider the Commission's vote in H22-0418-A/B/C/D, Stubenrod v. MacDonald, Boterf, Baldwin & Pease. 5 in favor | 0 opposed.

H22-0418-A/B/C/D: Deril Stubenrod (Belgrade) v. George MacDonald (Homosassa, FL), Tonia Boterf (Homosassa, FL), Jeffrey Baldwin (Belgrade) & Victoria Pease (Belgrade). Deril Stubenrod presented her position as the Complainant. Attorney Matthew Libby presented the position of Respondents MacDonald and Boterf. Investigator Colin Hurd presented/answered Commissioner questions about the investigation and report. Commissioner David moved, seconded by Commissioner Douglas, to find that there are no reasonable grounds to believe that George MacDonald, Tonia Boterf, Jeffrey Baldwin, or Victoria Pease discriminated against Deril Stubenrod on the basis of sexual orientation or gender identity, and the complaint should be dismissed in accordance with 5 M.R.S. § 4612(2). 5 in favor | 0 opposed.

PA21-0219*: Jeffrey/Dana Berkowitz o/b/o Minor Child (Woodcliff, NJ) v. Nonantum Resort (Kennebunk), Jean Ginn Marvin (Kennebunk) & Tina Hewitt-Gordon (Kennebunk). Attorney Tawny Alvarez presented the

* Indicates a case in which a "reasonable grounds" finding is recommended

position of the Respondents. Jeffrey Berkowitz presented his/family's position as the Complainant(s). Investigator Angela Morse presented/answered Commissioner questions about the investigation and report.

- Commissioner Ashby moved, seconded by Commissioner Walker, to find that there are reasonable grounds to believe that Nonantum Resort, Jean Ginn Marvin, and Tina Hewitt- Gordon discriminated against Jeffrey and Dana Berkowitz and o/b/o Minor Child based on disability (denial of reasonable modifications and denial of services), and the claim should be conciliated pursuant to the MHRA. 2 in favor | 3 opposed (David, O'Brien, Douglas opposed); the motion did not pass.
- Commissioner O'Brien moved, seconded by Commissioner Douglas, to find that there are no reasonable grounds to believe that Nonantum Resort, Jean Ginn Marvin, and Tina Hewitt- Gordon discriminated against Jeffrey and Dana Berkowitz and o/b/o Minor Child based on disability (denial of reasonable modifications and denial of services), and the claim should be dismissed pursuant to the MHRA. 3 in favor | 2 opposed (Ashby, Walker opposed).
- Commissioner O'Brien, seconded by Commissioner David, moved to find that there are no reasonable grounds to believe that Nonantum Resort, Jean Ginn Marvin, and Tina Hewitt- Gordon retaliated against Jeffrey and Dana Berkowitz and o/b/o Minor Child for engaging in MHRA-protected activity, and the claim should be dismissed pursuant to the MHRA. 3 .in favor | 2 opposed (Ashby, Walker opposed).

E21-0243: Jocelyn Smith (Freeport) v. Falmouth by the Sea (Falmouth). Jocelyn Smith presented her position as the Complainant. Attorney Katherine Rand presented the position of the Respondent. Investigator Angela Morse presented/answered Commissioner questions about the investigation and report. Commissioner O'Brien moved, seconded by Commissioner Walker, to find that there are no reasonable grounds to believe that Falmouth by the Sea discriminated against Jocelyn Smith on the basis of color and race (hostile work environment) and that there are no reasonable grounds to believe that Falmouth by the Sea retaliated against Jocelyn Smith for engaging in WPA-protected activity, and the complaint should be dismissed in accordance with 5 M.R.S. § 4612(2). 5 in favor | 0 opposed.

E21-0347*: Mariah Tuscano (Milo) v. New Beginnings Residential Care, LLC (Milo). Attorney John Hamer presented the position of Respondent. Attorney Timothy Brock presented the position of Complainant. Investigator Colin Hurd presented/answered Commissioner questions about the report and investigation. Commissioner David moved, seconded by Commissioner Douglas; to find that there are **reasonable grounds** to believe that New Beginnings Residential Care, LLC, discriminated against Mariah Tuscano on the basis of sex, and that there are **reasonable grounds** to believe that New Beginnings Residential Care, LLC, retaliated against Mariah Tuscano for engaging in MHRA-protected activity, and conciliation of these claims should be attempted in accordance with 5 M.R.S. § 4612(3), and to find that there are no reasonable grounds to believe that New Beginnings Residential Care, LLC, discriminated against Mariah Tuscano on the basis of disability, and this claim should be dismissed in accordance with 5 M.R.S. § 4612(2). 5 in favor | 0 opposed.

E21-0512ABC: Lana Fields (Indian Island) v. Dunkin Donuts, "Danielle" & "Jesse" (Old Town). Lana Fields presented her position as the Complainant. Attorney Joshua Scott presented the position of Respondent Dunkin Donuts. Investigator Angela Morse presented/answered Commissioner questions about the investigation and report. Commissioner O'Brien moved, seconded by Commissioner Douglas, to find that there are no reasonable grounds to believe that Dunkin Donuts discriminated against Lana Fields on the basis of race, color, ancestry, and/or religion (hostile work environment), and that there are no reasonable grounds to believe that Dunkin Donuts discriminated against Lana Fields for engaging in WP A-protected activity, and the complaint should be dismissed in accordance with 5 M.R.S. § 4612(2). 5 in favor | 0 opposed.

** Indicates a case in which a "reasonable grounds" finding is recommended*

EXECUTIVE SESSION

At approximately 1:30 P.M., Commissioner Ashby moved, seconded by Commissioner Walker, 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 2:00 P.M., Commissioner Ashby moved, seconded by Commissioner Walker, to come out of Executive Session. 5 in favor | 0 opposed.

With respect to reasonable-grounds cases that were not successfully resolved by conciliation, Commissioner David moved, seconded by Ashby, to not initiate a litigation enforcement action in *Hobbs v Lee Auto Malls* (E21-0021) and to initiate a litigation enforcement action in *Deschaines v. Auburn Housing Authority and D. Jordan* (H22-0253A+C). 5 in favor | 0 opposed.

With respect to *Porelle v. Warren* (H22-0295), decided at the Commission's March 2023 meeting, Commissioner David moved, seconded by Commissioner O'Brien, to deny Complainant Porelle's "Request for Relief and Request for New Investigation". 5 in favor | 0 opposed.

At approximately 2:15 P.M., the meeting was adjourned.

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.

E21-0105-C	Laura Bushey (Richmond) v. State of Maine, DAFS (Augusta)	NRG
E21-0160	Katherine Barron (Portland) v. Avesta Housing Development Corporation (Portland)	NRG
E21-0184	Kaylee Lussier (Biddeford) v. South Portland Chicken, LLC d/b/a Popeyes Louisiana Kitchen (--)	NRG
E21-0351	Geoffrey Blair (Sioux Falls, SD) v. Shephard Toyota (Thomaston)	NRG
E22-0036	Lana Smith (Bowdoinham) v. First Student Inc First Group (Cincinnati, Oh)	NRG
E22-0130	Scott Gavett (Bridgeton) v. Ferguson Enterprises, LLC (South Portland)	NRG
H22-0420 (A-D)	Molly Nickerson (Linneus) v. Janice Good (Houlton), Clay Good (Houlton), Kilconnell Associates (Houlton) & Heather Hill Management Co (Linneus)	NRG
H23-0020*	James Curtis (Lincoln) v. Luzmila Cabrera (Madison)	RG

TABLED

* Indicates a case in which a "reasonable grounds" finding is recommended