



## Maine Human Rights Commission

# 51 State House Station - Augusta, ME 04333

**Patricia E. Ryan**  
Executive Director

**John P. Gause**  
Commission Counsel

### COMMISSION MEETING MINUTES

Senator Conference Center (Best Western) Embassy Room  
284 Western Ave ~ Augusta, Maine

September 21, 2009

Chair Paul Vestal called the September 21, 2009 Commission meeting to order at 8:29 a.m. Present were Commissioners: Paul Vestal, Chair; Sallie Chandler; and Kenneth Fredette.

Paul Vestal called for adoption of the agenda.

- Commission Counsel John Gause requested that E08-0443, *Campos v. Standard Insurance* be tabled to the October Agenda.
- Commission Counsel John Gause requested that E08-0531, *Henry v. Jensen Construction* be tabled to the October Agenda.
- Commission Counsel John Gause requested that E08-0434, *Sewall v. Cianbro* be tabled to the October Agenda.
- Commission Counsel John Gause requested that E08-0153, *Record v. SOM/DPS* be removed from the agenda.
- Commission Counsel John Gause requested that E08-0594, *Taylor v. Saga Communications* be tabled to the October Agenda.
- Commission Counsel John Gause requested that E08-0324, *Ross v. JP Morgan Chase* be tabled to the October Agenda.
- Commission Counsel John Gause requested that E08-0221, *Wallace v. Catholic Charities of Maine* be tabled.
- Commission Counsel John Gause requested that Commissioners agree to issue a right to sue by removing *Fuhrman v. Steppe, Lemeux, Auger & Roddick* from the Agenda.

Commissioner Chandler moved, seconded by Commissioner Fredette to adopt the revised agenda as amended. 3 in favor, 0 opposed

- Commission Counsel John Gause requested that E08-0191: *Garland v. Anson-Madison-Starks Ambulance Service* be removed from the agenda.

Commissioner Fredette moved, seconded by Commissioner Chandler to adopt the revised agenda as amended. 3 in favor, 0 opposed

## **CONSENT AGENDA (see detailed listing on page 6)**

Commissioner Fredette moved, seconded by Commissioner Chandler, to accept the Investigator's recommendations in each of the cases on the Consent Agenda. 3 in favor, 0 opposed

## **MINUTES**

Commissioner Chandler moved, seconded by Commissioner Fredette, to adopt the August 10, 2009 Commission Meeting Minutes as written. 3 in favor, 0 opposed.

## **ADMINISTRATION**

Commission Counsel John Gause reviewed the report, dated August 28, 2009, indicating that there had been no significant personnel activity, and it was placed on file.

## **COMPLIANCE**

- Conciliation Agreement: Commissioners reviewed Fran Davis' report and it was placed on file.
- Compliance Report: Commissioners reviewed Fran Davis' report and it was placed on file.

## **INVESTIGATION**

- New Charges: Commission staff opened 64 new cases in August.
- Administrative Dismissals: Commission staff administratively dismissed 13 cases in August.
- Pre-determination Settlements: During the months of August, investigators were responsible for obtaining settlements in 19 cases resulting in a total monetary relief in excess of \$113,000.

## **NEW BUSINESS:**

Commission Counsel John Gause discussed a new project between the Commission and the National Association for the Advancement of Colored People's (NAACP) Portland Maine branch.

## **LITIGATION:**

Commissioner's agreed to move litigation discussions to the Executive Session.

At 8:35 Commissioner Vestal called for a ten minute recess.

## **CASES VOTED ON:**

PA08-0259, 0260, *Wayne Draper (Augusta) v. Augusta Police Department, City of Augusta*: Attorney Sean Ociepka restated the position of the Complainant. Attorney Stephen Langsdorf restated the position of the Respondents. Investigator Michele Dion restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Respondents discriminated against Wayne Draper in access to public accommodations because of his disability. 3 in favor, 0 opposed.

E08-0012: *Tim Condon (Minot) v. Emerson Auto Sales, Inc. (Auburn)*: Attorney Chad Hansen restated the position of the Complainant. Jim Emerson restated the position of the Respondent. Commissioner

Chandler moved, seconded by Commissioner Vestal, to find **reasonable grounds** to believe that Respondent discriminated against Tim Condon on the basis of disability by failing to reasonably accommodate him and by terminating his employment. 2 in favor, 1 opposed (Fredette opposed).

E08-0014: *John Whitney (S Portland) v. TSA Stores, Inc. d/b/a Sports Authority (CO)*: Attorney Nichiolas Bull restated the position of the Complainant. Sports Authority restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Complainant was subjected to illegal retaliation as a result of whistleblowing in making a report of sexual harassment or that constructive discharge has occurred. 3 in favor, 0 opposed.

E08-0056: *Ernest Donatelli (Auburn) v. Annabelle Lee, Inc. (Norway)*: Attorney Rebecca Webber restated the position of the Complainant. Frank Mino restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Fredette, to find **reasonable grounds** to believe that complainant was unlawfully discriminated against in employment due to whistleblowing activity when he was terminated. 3 in favor, 0 opposed.

E08-0104: *Betheny Anderson (Caribou) v. Maine Public Employee Retirement Sys (Augusta)*: Bethany Anderson restated the position of the Complainant. Assistant Attorney General Susan Herman restated the position of the Respondent. Intern Katrina Welt restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Vestal, to find **reasonable grounds** to believe that complainant was unlawfully discriminated against in employment, public entity, and public accommodation, on the basis of disability. 2 in favor, 1 opposed (Fredette Opposed).

E09-0137: *Susan Patti (Greenbush) v. Tim Hortons USA, Inc. (CA)*: Attorney Kristin Aiello restated the position of the Complainant. Attorney Geoffrey Cummings restated the position of the Respondent. Commission Counsel John Gause restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Vestal, to find no reasonable grounds to believe that Respondent is liable for discrimination and retaliation against Complainant. 3 in favor, 0 opposed.

E08-0219: *Joel Torres (Bangor) v. Burlington Coat Factory & Burlington Coat Factory of Maine, LLC (Bangor)*: Attorney Jeffrey Neil Young restated the position of the Complainant. Attorney Sarah Newell restated the position of the Respondent. Intern Katrina Welt restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that unlawful employment discrimination because of national origin, race, ethnicity or color has occurred. 3 in favor, 0 opposed.

E08-0220: *Edgardo Rivera (Bangor) v. Burlington Coat Factory & Burlington Coat Factory of Maine, LLC (Bangor)*: Attorney Jeffrey Neil Young restated the position of the Complainant. Attorney Sarah Newell restated the position of the Respondent. Intern Katrina Welt restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that unlawful employment discrimination because of national origin, race, ethnicity or color has occurred. 3 in favor, 0 opposed.

E08-0222: *Jamie Fuhrmann (Saco) v. Staples, Inc. (Biddeford)*: Attorney Karen Wolfram restated the position of the Complainant. Respondent was not present. Investigator Michele Dion restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Respondent, Staples, Inc., retaliated against Complainant due to whistleblower activity, resulting in her constructive discharge from employment. 3 in favor, 0 opposed. Commissioner

Fredette moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Respondent, Staples, Inc., discriminated against Complainant due to sex. 3 in favor, 0 opposed.

E08-0335: *Henry Kane (Gorham) v. VSI Meter services, Inc. (PA)*: Attorney William Vickerson restated the position of the Complainant. Respondent was not present. Investigator Sheila Pierce restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Respondent terminated Complainant's employment because of his physical disability. 3 in favor, 0 opposed.

At 12:10 Chair Vestal called for a one hour lunch break.

E08-0447: *Clifton Walter (S. Thomaston) v. Owls Head Aviation, LLC (Camden)*: Clifton Walter rested the position of the Complainant. Attorney Laurie Londis Dwyer restated the position of the Respondent. Investigator Sheila Pierce restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that unlawful employment discrimination due to whistleblower retaliation has occurred. 3 in favor, 0 opposed.

E08-0524: *Stephen McLean, Sr. (Waldoboro) v. Ferraiolo Construction Co. (Rockland)*: Stephen McLean restated the position of the Complainant. Respondent was not present. Investigator Paul Pierce restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Fredette, to find no reasonable grounds to believe that unlawful employment discrimination because of whistleblower retaliation has occurred. 3 in favor, 0 opposed.

E08-0535, 0536: *Brian Currie (Portland) v. Anthem Blue Cross & Blue Shield (Portland) and WellPoint, Inc. (NY)*: Attorney Kristin Aiello restated the position of the Complainant. Attorney Katie Rand restated the position of the Respondents. Investigator Paul Pierce restated the facts of the case. Commissioner Chandler moved, Seconded by Commissioner Fredette, to find **reasonable grounds** to believe that unlawful medical inquiries were made by Respondents. 3 in favor, 0 opposed. Commissioner Chandler moved, Seconded by Commissioner Fredette, to find no reasonable grounds to believe that Respondents unlawfully dismissed Complainant for disability reasons or that Respondents failed or refused to accommodate Complainant. 3 in favor, 0 opposed.

E08-0567: *Virginia Breen (Cumberland) v. C.N. Brown (Cumberland)*: Complainant was not present. Respondent was not present. Commissioner Fredette moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe unlawful employment discrimination because of disability has occurred. 3 in favor, 0 opposed.

E08-0597: *Andrea Bodman v. State of Maine/Dept of Health & Human Services (Portland)*: Attorney Alexander Saksen restated the position of the Complainant. Assistant Attorney General Melissa Reynolds O'Dea restated the position of the Respondent. Commissioner Fredette moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe unlawful employment discrimination because of sex or constructive discharge has occurred. 3 in favor, 0 opposed.

E08-0651: *Michele Harnois-Lehr (Portland) v. O'Hearn Insurance Group (Portland)*: Attorney Elliot Epstein restated the position of the Complainant. Attorney Gregg Frame restated the position of the Respondent. Investigator Paul Pierce restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Vestal, to find no reasonable grounds to believe unlawful employment discrimination due to failure or refusal to accommodate, or unlawful termination because of disability has occurred. 3 in favor, 0 opposed.

H09-0030(A-C): *Amy Martin & o/b/o minor (Bangor) v. Boyd Street Assoc, Realty Resources Mgt, & C. Batchelder (Bangor)*: Attorney Patricia Ender Restated the position of the Complainant. Attorney Ed Gould restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe unlawful housing discrimination for refusing a request to provide a reasonable modification of a fenced-in dog run or by prohibiting visiting pets has occurred. 3 in favor, 0 opposed. Commissioner Fredette moved, seconded by Commissioner Chandler, to find **Reasonable Grounds** to believe unlawful housing discrimination because of disability has occurred for imposing and enforcing a lease amendment requiring a third party to accept responsibility for a service animal in the event of a tenant's incapacity. 3 in favor, 0 opposed.

H09-0165: *Amy Martin (Bangor) v. Bangor Housing Authority (Bangor)*: Attorney Patricia Ender restated the position of the Complainant. Attorney Ed Gould restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Fredette moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondents refused to provide Complainant with a reasonable accommodation (three bedroom voucher) by causing an undue delay in providing the accommodation. 3 in favor, 0 opposed.

At 3:23 Commissioner Kenneth Fredette left the meeting.

H09-0197: *Lexie Cates (Lewiston) v. Nu Realty, Inc. and A. Bazinet (Auburn)*: Attorney John Crouch restated the position of the Respondent. Lexie Cates restated the position of the Complainant. Commission Counsel John Gause restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Vestal, to find **reasonable grounds** to believe that Respondents retaliated in housing against Complainant. 2 in favor, 0 opposed.

#### **EXECUTIVE SESSION:**

Commissioner Chandler moved, seconded by Commissioner Vestal to move into executive session to discuss litigation with Commission Counsel pursuant to 1 M.R.S.A. §405(6)(E). 2 in favor, 0 opposed

Commissioner Chandler moved, seconded by Commissioner Vestal, to move out of executive session. 2 in favor, 0 opposed

- Commissioner Vestal moved, seconded by Commissioner Chandler not to file a complaint in E07-0293: *Bonnie Chase v. Laboratory Billing Services*. 2 in favor, 0 opposed
- Commissioner Vestal moved, seconded by Commissioner Chandler not to file a complaint in E07-0529: *Michelle Ouelette v. Edward's Restaurant, Inc.* 2 in favor, 0 opposed
- Commissioner Vestal moved, seconded by Commissioner Chandler not to file a complaint in E07-0690: *Kevin Bouchard v. L.J. Paradis, Inc.* 2 in favor, 0 opposed
- Commissioner Vestal moved, seconded by Commissioner Chandler not to file a complaint in E08-0175: *Nycole McGlaufflin v. RCC Atlantic, Inc./Rural Cellular Corp.* 2 in favor, 0 opposed
- Commissioner Vestal moved, seconded by Commissioner Chandler not to file a complaint in H08-0612-A/B: *Nicole Dussault v. RRE Coach Lantern Holdings, LLC & Resource Real Estate Management*. 2 in favor, 0 opposed

#### **ADJOURN:**

There being no further business to come before the commission, the meetings was adjourned at 3:40 p.m.

### CONSENT AGENDA:

The consent agenda is a listing of cases scheduled on the Commission’s meeting agenda in which there is no written disagreement to the Investigator’s recommendation. Commissioners consider these cases without oral argument by the parties.

E07-0715:	Jill Instasi (Auburn) v. MACTEC Engineering & Consulting (Portland)	NRG
E08-0092:	Michael Towsley (Hancock) v. Lowe’s (Ellsworth)	NRG
E08-0190:	Margaret Tracy (Hope) v. The Coastal Workshop (Camden)	NRG
E08-0194:	Mary Lewis (Phippsburg) v. M.W. Sewall & Company (Bath)	NRG
E08-0200:	Blanche Tucker (Buxton) v. The Home Depot USA, Inc. (Portland)	NRG
E08-0218:	Susan Patti (Greenbush) v. Coffee Couple, LLC d/b/a Tim Hortons (Old Town)	NRG
E08-0646:	Anthony Verville (Monticello) v. Coffee Couple, LLC d/b/a Tim Hortons (Houlton)	NRG
E08-0315:	Terry Temple (Winterport) v. Little River Apparel (Belfast)	NRG
E08-0332:	Christopher Ouellette (Lewiston) v. Staples (Augusta)	NRG
E08-0454:	Sheena Grant (Portland) v. Alpine Linen Services, Inc. (Portland)	NRG
E08-0485:	Kimberly Chamberlain(Scarborough) v. Portland Gastroenterology (Portland)	NRG
E08-0489:	Sulemana Samare (Biddeford) v. Hawthorne House (Freeport)	NRG
E08-0492:	George Morton (Mexico) v. Community Energy Co. (Rumford)	NRG
E08-0493:	Lynn Ascrizzi (Freedom) v. Central Maine Newspapers (Augusta)	NRG
E08-0551:	Cynthia Chiang (AK) v. City of Portland	NRG
E08-0571:	Justin Reber (Athens) v. McDonald’s (Dover-Foxcroft)	NRG
E08-0583:	Desiree Voye (Bangor) v. Aspen Dental (Bangor)	NRG
H09-0268:	Virgie Perry & Amanda Beattie (Portland) v. Port Property Mgt, East Danforth	NRG