



# Maine Human Rights Commission

# 51 State House Station - Augusta, ME 04333

**Patricia E. Ryan**  
*Executive Director*

**John P. Gause**  
*Commission Counsel*

## COMMISSION MEETING MINUTES

*19 Union Street ~ Augusta, Maine*

**June 27, 2011**

Commissioner Vestal called the June 27<sup>th</sup>, 2011 Commission meeting to order at 8:28 a.m. Present were Commissioners: Paul Vestal, Sallie Chandler, Joe Perry and A. Mavourneen Thompson.

Commissioner Vestal called for adoption of the agenda.

- Executive Director Patricia Ryan requested that case E09-0468: Mark McCue v. Telpower, Inc. be tabled to the August Commission Meeting.
- Executive Director Patricia Ryan requested that case E09-0499: Segeda v. Goodwill Industries be tabled to the August Commission Meeting.
- Executive Director Patricia Ryan requested that case E09-0614: Thayer v. Cianbro Corp be tabled to the August Commission Meeting.
- Executive Director Patricia Ryan requested that case E09-0533: Brennan v. Independence Association Corp be tabled to the August Commission Meeting.
- Executive Director Patricia Ryan requested that case H11-0184: Manuel v. Baron be tabled to the August Commission Meeting.
- Executive Director Patricia Ryan requested that the Conciliation agreement in PA09-0316: Burch V. Denny's be added to the Agenda.
- Executive Director Patricia Ryan requested that the Conciliation agreement in E09-0325: Freeman v. Tamco Transportation, Inc. be added to the Agenda.
- Executive Director Patricia Ryan requested that the Conciliation Agreement in H09-0382, Mays v. Tisdale Management be added to the Agenda.

Commissioner Chandler moved, seconded by Commissioner Thompson to adopt the agenda as amended. 4 in favor | 0 opposed.

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

Commissioner Chandler moved, seconded by Commissioner Thompson, to accept the Investigator's recommendations in each of the cases on the Consent Agenda. 4 in favor | 0 opposed.

## **MINUTES**

Commissioner Chandler moved, seconded by Commissioner Perry to adopt the May 16<sup>th</sup> Commission Meeting Minutes. 4 in favor | 0 opposed

## **ADMINISTRATION**

Personnel Report: Executive Director Patricia Ryan noted that this would be her last meeting, and that her last day in the office would be June 30, 2011.

Commissioner Chandler moved, seconded by Commissioner Thompson to appoint Commission Counsel John P. Gause Acting Executive Director effective July 1, 2011. 4 in favor | 0 opposed.

## **COMPLIANCE**

Compliance Report: Commissioners reviewed the compliance report dated June 21<sup>st</sup> and it was placed on file.

Commissioner Chandler moved, seconded by Commissioner Perry to accept the Conciliation Agreement in PA09-0316 Burch v. Realty Resources Hospitality, LLC d/b/a Denny's Restaurant. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry to accept the Conciliation Agreement in E09-0325: Freeman v. Tamco Transportation. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson to accept the Conciliation Agreement in H09-0382: Mays v. Tisdale Management Company. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Perry to dismiss E09-0226: Witham v. Parker K. Bailey & Sons as the case has been resolved by the parties. 4 in favor | 0 opposed.

## **INVESTIGATION**

- New Charges: Commission staff opened 77 new cases in May.
- Administrative Dismissals: Commission staff dismissed 12 cases in May.
- Pre-determination Settlements: Since the May Commission meeting, staff were responsible for obtaining settlements in 16 cases resulting in total monetary relief in excess of \$175,000 for complainants.

**LITIGATION** Moved to Executive Session.

## **NEW BUSINESS:**

Commission Counsel John Gause provided a review of a Legislative Update Memo dated June 20, 2011, The memo was placed on file.

Executive Director Patricia Ryan reviewed a memo dated June 7, 2011 in response to an earlier request to review Commissioner Compensation, noting any change requests submitted would need to be included in a budget change package submission by the Commission in the next biennial budget. The memo has been placed on file.

Executive Director Patricia Ryan reviewed the proposed 2012 Commission Meeting schedule. Commissioner Thompson moved, seconded by Commissioner Chandler to adopt the proposed meeting schedule. 4 in favor | 0 opposed.

At 8:43 AM Chair Vestal called for a 5 minute recess.

**CASES VOTED ON:**

PA10-0316: David Brown (Poland) v. Town of Oxford / PA10-0317: David Brown (Poland) v. Oxford County Sheriff's Department (Oxford): Attorney Amy Sneisen restated the position of the Complainant. Attorney Elizabeth Stouder and Analee Rosenblatt restated the position of the Respondents. Investigator Angela Tizon restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Perry to find reasonable grounds to believe that the Town of Oxford (Oxford Police Department) discriminated against David Brown on the basis of disability by failing to provide him with a qualified ASL interpreter. 3 in favor, 1 opposed (Thompson opposed.). Commissioner Thompson moved, seconded by Commissioner Perry to find reasonable grounds to believe that the Oxford County Sheriff's Department discriminated against David Brown on the basis of disability by failing to provide him with a qualified ASL interpreter. 2 in favor, 2 opposed (Chandler and Vestal opposed). Motion failed. Reasonable grounds were not found. Commissioner Chandler moved, seconded by Commissioner Vestal to find no reasonable grounds to believe that the Oxford County Sheriff's Department discriminated against David Brown on the basis of disability by failing to provide him with a qualified ASL interpreter. 2 in favor | 2 opposed. (Thompson and Perry opposed). Because of the tie vote, the finding is no reasonable grounds.

PA10-0323: Kevin Myshrall (Augusta) v. Peter Morse & Peter Morse, Inc. (S Portland): Attorney Stephen Langsdorf restated the position of the Respondent. Attorney Sean Ociepka restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find **reasonable grounds** to believe that Peter Morse and Peter F. Morse, Inc. discriminated against Kevin Myshrall on the basis of his disability by failing to provide him with a qualified interpreter. 3 in favor | 1 opposed (Thompson opposed).

At 10:10 AM Chair Vestal called for a 10 minute recess.

**E09-0474:** Panagiotis Konstantaras (Dresden) v. Merrymeeting Behav. Health (Brunswick). / E09-0474A: Panagiotis Konstantaras (Dresden) v. E. Cobb (Brunswick) / E09-0474B: Panagiotis Konstantaras (Dresden) v. J Talbot (Brunswick): Attorney Justin Andrus restated the position of the Complainant. Attorney Katharine Rand restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Thompson to find that there are no reasonable ground to believe that Merrymeeting Behavioral Health Associates, Emily Cobb, or James Talbot discriminated against Panagiotis Petier Konstantaras on the basis of sexual orientation, national origin or whistleblower retaliation. 4 in favor | 0 opposed.

E09-0511: Annissa Sanborn (Brewer) v. Carrols Corp (NY): Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Carrols discriminated against Annissa Sanborn due to sex, sexual harassment or retaliation. 4 in favor | 0 opposed.

E09-0541: Dell Briggs (Lisbon) v. Maine Recycling Corp (Lisbon Falls): Attorney Allison Gray restated the position of the Complainant. Attorney Jenny Birch restated the position of the Respondent. Chief Investigator Lelli restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler to find reasonable grounds to believe that the Respondent, Maine Recycling Corporation, terminated Complainant, Dell Briggs' employment because of Whistleblower retaliation. 2 in favor | 2

opposed. (Vestal and Thompson opposed). Motion failed. Reasonable grounds were not found. Commissioner Vestal moved, seconded by Commissioner Thompson to find no reasonable grounds to believe that the Respondent, Maine Recycling Corporation, terminated Complainant, Dell Briggs' employment because of Whistleblower retaliation 2 in favor | 2 opposed. (Perry and Chandler opposed). Because there was a tie vote, the finding is no reasonable grounds.

E10-0016: Souleymane Soumahoro (Portland) v. Barber Foods (Portland): Souleymane Soumahoro restated the position of the Complaint. Attorney Graden Stevens restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Complainant, Souleymane Soumahoro, was subjected to unlawful employment discrimination (unfair discipline; termination) based upon his race, color, ancestry, national origin, and/or report of discrimination by his supervisor to Human Resources. 4 in favor | 0 opposed.

PA10-0151: Frank Capizzano (Warren) v. State of Maine/Corrections/Prison (Warren). Complainant was not present. Commissioner Chandler moved, seconded by Commissioner Perry to find that there are no reasonable grounds to believe that the Complainant, Frank Capizzano, was unlawfully discriminated against by the Respondent, State of Maine/Maine State Prison/Department of Corrections, on the basis of physical disability. 4 in favor | 0 opposed.

E10-0330: Alice Hartley (Millinocket) v. Millinocket School Committee: Alice Hartley restated the position of the Complainant. Attorney Campbell Badger restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler to find there are no reasonable grounds to believe that Millinocket School Committee discriminated against Alice Hartley on the basis of sex by subjecting her to less favorable pay and benefits. 3 in favor | 1 opposed. (Thompson opposed)

PA10-0466: David Crayton & o/b/o minor (Winslow) v. Stage Presence for Dancers (Winslow): Attorney Matthew Mastrogiacomo restated the position of the Complainant. Attorney Arnold Clark restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Perry to find no reasonable grounds to believe that the Respondent, Stage Presence for Dancers, discriminated against Complainant, David Crayton, in access to a place of public accommodation because of his physical disability or that his daughter was retaliated against because of her association with a person with a disability or because Mr. Crayton had asserted his rights under the Maine Human Rights Act. 4 in favor | 0 opposed.

H11-0005: Gary Manuel (Bangor) v. B&L Properties & Danforth (Bangor);/ H11-0050: Eunice Manuel (Bangor) v. B&L Properties & Danforth (Bangor): Gary Manuel restated the position of the Complainant. Attorney Thad Zimstowski restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that the Respondents, B&L Properties, LLC and Michael R. Danforth II, evicted the Complainants, Gary Manuel and Eunice Manuel, or otherwise discriminated against them because of their race, color, disability, familial status, receipt of public assistance, or retaliation, or that the Respondents have engaged in any retaliation against the Complainants since they were evicted. 4 in favor | 0 opposed.

E11-0152: William Hutchings (Portland) v. Regional Transportation Program (Portland): Complainant not present. Commissioner Chandler moved, seconded by Commissioner Thompson to find there are no reasonable grounds to believe that the Respondent, Regional Transportation Program, Inc. Discriminated against Complainant, William Hutchings, on the basis of "physical or mental disability". 4 in favor | 0 opposed.

## **EXECUTIVE SESSION:**

Commissioner Chandler moved, seconded by Commissioner Perry to move into executive session at 12:48 p.m. to discuss litigation and a personnel matter with Commission Counsel pursuant to 1 M.R.S.A. §405(6)(E). 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson, to move out of executive session at 12:56 a.m. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson that the Commission **should not file** a complaint in E10-0084: Hider v. Total Property Services. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson that the Commission **should not file** a complaint in E10-0436: Brooks Violette v. The Starting Line. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson that the Commission **should not file** a complaint in E09-0480: Lee Scott v. Securitas Security Services USA Inc. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson that the Commission **should not file** a complaint in PA10-0066: Creedon v. Pegalepete's Leather Shop. 4 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson that the Commission **should accept the settlement** agreement in PA07-0711/0712: Shirley Carney v. Sunbury Primary Care. and approve the resolution of the Commission action by means of the public consent decree in 4 in favor | 0 opposed.

## **ADJOURN:**

There being no further business to come before the Commission, the meeting was adjourned at 12:59 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.

PA09-0515: Jeffrey Judkins (Sanford) v. Kennebunk Savings Bank (Kennebunk)	NRG
E09-0582: Rachel Dazanashvili Roy (Farmington) v. Iworx d/b/a Preval Direct (Scarborough)	NRG
E10-0048: Douglas Shorey (NH) v. Bancroft Contracting Corp (S. Paris)	NRG
PA10-0071: Tracie Addison (NC) v. J's Oyster (Portland)	NRG
E10-0163: Ashley Gilbert (Turner) v. Bodyworks Ent. d/b/a Planet Fitness (Auburn)	NRG
E10-0187: Scott Bacher (CT) v. Cellco Partnership d/b/a Verizon Wireless (AR)	NRG
E10-0373: Duane Coffill (Waterville) v. Scarborough Public Schools (Scarborough)	NRG
E10-0397: Jennifer Demers (Scarborough) v. Cloutier Direct, Inc. (Scarborough)	
E10-0398: Jennifer Demers (Scarborough) v. Scott Provencher (Old Orchard Beach)	RG
PA/ED10-0400: Anne Sutcliffe-Swanson (VT) v. University of Maine System (Augusta)	NRG
E10-0456: Jamerico Elliott (Saco) v. 7-Eleven #32540 (Biddeford)	NRG
E10-0586: Marc Matter (Kennebunk) v. Hostess Brands, Inc. (Biddeford)	RG