



Maine Human Rights Commission
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COMMISSION MEETING MINUTES
19 Union Street ~ Augusta, Maine

March 5, 2012

Commissioner Chandler called the March 5, 2012 Commission meeting to order at 8:30 a.m. Present were Commissioners: Paul Vestal, Sallie Chandler, A. Mavourneen Thompson, Deborah Whitworth.

Commissioner Chair Paul Vestal called for adoption of the agenda.

- Executive Director Amy Sneirson requested that case E10-0190, Patrick O'Brien v. Maine Medical Center be removed from the agenda and placed on the Consent Agenda.
- Executive Director Amy Sneirson requested that case E11-0205, Shirley Kelderhouse v. Piscataquis Regional YMCA be tabled to the April 9th Commission Meeting.
- Executive Director Amy Sneirson requested that case PA10-0457, Carol Holmes v. Open Hearth LLC be tabled to the April 9th Commission Meeting.
- Executive Director Amy Sneirson requested that case E10-0274, David Hill v. Davis Long Term Care Group, Inc. d/b/a Seven Tree Manor be removed from the Consent Agenda and tabled to the April 9th Commission Meeting.
- Executive Director Amy Sneirson requested that case E11-0036, Russell Martell v. Northcountry Management Group d/b/a Burger King be removed from the Consent Agenda and tabled to the April 9th Commission Meeting.
- Executive Director Amy Sneirson requested that case E10-0487, Carlson v. Central Maine Medical Center be tabled to the May 21st Commission Meeting.

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

CONSENT AGENDA (see detailed listing on page 5)

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

MINUTES:

Commissioner Vestal moved, seconded by Commissioner Chandler, to adopt the January 23, 2012 Commission Meeting Minutes. 3 in favor | 1 abstained (Vestal abstained).

ADMINISTRATION:

Personnel Report: Executive Director Amy Sneirson reviewed the report dated March 2, 2012. The Commission finalized the interview process for the Compliance Manager position. Jill Duson of Portland has accepted the Commission's offer to become the Compliance Manager and will begin on March 19, 2012.

In February, the Commission was awarded three grants by HUD for Fair Housing Assistance activities. We are considering options for hiring for that short-term grant funded position.

COMPLIANCE:

Compliance Report: Commissioners reviewed the compliance report and it was placed on file.

INVESTIGATION:

- New Charges: Commission staff opened 39 new charges in January and opened 49 new charges in February.
- Administrative Dismissals: Commission staff dismissed 5 charges in January, and 15 charges in February.
- Pre-determination Settlements: During the month February, staff were responsible for obtaining settlements in 17 cases resulting in total monetary relief in excess of \$ 440,260 for complainants.

At 8:40 Commissioner Clark arrived at the meeting.

Commissioner Chandler moved, seconded by Commissioner Clark, to approve settlement in case E10-0273: Cecelia Smith v. KenKev II d/b/a PT's Show Club. 5 in favor | 0 opposed. Commissioner Chandler moved, seconded by Commissioner Clark, to allow withdrawal of case E10-0273: Cecilia Smith v. KenKev II d/b/a PT's Show Club. 5 in favor | 0 opposed

Commissioner Chandler moved, seconded by Commissioner Clark, to accept the conciliation agreement in case H11-0338: Joseph Bonnadio, Jr. And William Paquet v. Realty Resource Management. 5 in favor | 0 opposed.

LITIGATION: Moved to Executive Session.

NEW BUSINESS: The Bureau of General Services has communicated to the tenants of 19 Union Street that all or part of the Conference Room meeting space will be needed to permanently house servers for the Office of Information Technology. The Bureau of General Services has also advised that another agency will be occupying the 19 Union Street Building. A meeting will be scheduled with the current tenants to discuss the impact on each of the agencies.

At 8:42 AM Commissioner Chandler called for a 5 minute recess.

CASES VOTED ON:

E10-0139 | Christiane Gilbert-Smith (Pittsfield) v. Skowhegan SNF Operations, LLC d/b/a Cedar Ridge Center (Skowhegan): Attorney Francis Griffin Jr. restated the position of the Complainant. Mary Norton restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Skowhegan SNF Operations, LLC d/b/a Cedar Ridge Center retaliated against Christiane Gilbert-Smith in violation of the Whistleblowers' Protection Act for complaining of unsafe and illegal activity in the workplace. 5 in favor | 0 opposed.

E11-0086: Irene Morton (Casco) v. Town of Casco (Casco). Irene Morton restated the position of the Complainant. Attorney Mark Franco restated the position of the Respondent. Investigator Michèle Dion restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that the Respondent, Town of Casco, discriminated against Complainant Irene Morton, on the basis of age. 5 in favor | 0 opposed.

E10-0167: Danielle Cyr (Auburn) v. Town of Windham (Windham). Attorney Rebecca Webber restated the position of the Complainant. Attorney Patricia Dunn restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find **reasonable grounds** to believe that the town of Windham discriminated against Danielle Cyr by subjecting her to a hostile work environment based on sex. 5 in favor | 0 opposed. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find **reasonable grounds** to believe that the Town of Windham retaliated against Danielle Cyr for reporting sexual harassment in violation of the MHRA. 4 in favor | 1 opposed. (Clark opposed).

PA10-0173: Marianne McGettigan (Freeport) v. Town of Freeport (Freeport). Attorney Timothy O'Brien restated the position of the Complainant. Attorney Noreen Patient restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Complainant Marianne McGettigan was unlawfully discriminated against by Respondent Town of Freeport on the basis of physical disability. 4 in favor | 0 opposed | 1 abstained. (Chandler abstained).

E10-0445: Shannon Cadman (Greene) v. Taylor Brook Dental Associates, PA (Auburn). Attorney Scott Quigley restated the position of the Complainant. Attorney Carol Eisenberg restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Taylor Brook Dental Associates discriminated against Complainant Shannon Cadman in employment because of physical disability by terminating her employment. 4 in favor | 0 opposed | 1 abstained. (Thompson abstained).

At 10:39 Commissioner Vestal called for a 5 minute break.

E10-0473: Andrew Spicer (Dresden) v. Reed & Reed, Inc. (Woolwich). Attorney Carol Garvan restated the position of the Complainant. Attorney Peter Lowe restated the position of the Respondent. Michele Dion restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Clark, to find reasonable grounds to believe that Respondent Reed and Reed Inc. discriminated against Complainant Andrew Spicer in employment because of physical disability or genetic pre-disposition by terminating his employment. 1 in favor | 4 opposed. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Reed and Reed Inc. discriminated against Complainant Andrew Spicer in employment because of physical disability or genetic pre-disposition by terminating his employment. 4 in favor | 1 opposed. (Thompson opposed).

EXECUTIVE SESSION:

Commissioner Chandler moved, seconded by Commissioner Whitworth, to move into executive session at 11:15 a.m. to discuss litigation with Commission Counsel pursuant 1 M.R.S.A. §405(6)(E). 5 in favor | 0 opposed.

At approximately 12:13 p.m. Commissioner Chandler moved, seconded by Commissioner Whitworth, to come out of executive session. 5 in favor | 0 opposed.

Commissioner Clark moved, seconded by Commissioner Chandler, that the Commission **should file** an amicus curiae brief in H08-0612-A/B, Nicole Dussault v. RRE Coach Lantern Holdings, LLC & Resource Real Estate Management Inc., (1) clarifying the Commission’s position that the refusal to sign Section 8 lease Addenda constitutes unlawful housing discrimination unless justified by specifications that are consistent with “business necessity” and that are not based on the receipt of public assistance payments, with business necessity established by objective evidence to be closely tailored to serve a legitimate and substantial reason, and (2) seeking remand of the case to Superior Court. 5 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Whitworth, that the Commission **should file** an amicus curiae brief in the Law Court on MHRC Case #E08-0222, Jamie Fuhrmann v. Staples, Inc., clarifying the Commission’s position that the Maine Human Rights Act provides for individual supervisor liability in employment actions. Commissioner Chandler moved, seconded by Commissioner Whitworth. 4 in favor | 1 opposed. (Clark opposed).

Commissioner Chandler moved seconded by Commissioner Clark that the Commission **should not file** a complaint in the following cases:

- E10-0002: Lori Levesque v. Allies, Inc.
- E10-0085: Sally Spencer v. A Loving Touch, Inc.
- E09-0618: John Dana v. Center for Behavioral Health ME d/b/a Discovery House
- E09-0619: Colleen Taylor v. Center for Behavioral Health ME d/b/a Discovery House
- E10-0160: David Crosby v. F.W. Webb Company
- E10-0622: Angel Soucie v. Fred Lozoway d/b/a Fred’s Carpet Barn/Fred’s Carpet Barn, Inc.
- E10-0098: Phyllis Soule v. Wiscasset Quick Stop/Next Gen Retail, LLC

5 in favor | 0 opposed.

At 12:31 Chair Vestal called the afternoon session of the meeting to order.

E11-0153: Diane L. Hebert (Benton) v. MaineGeneral Medical Center (Waterville). Attorney Robert G. Sandy Jr., restated the position of the Respondent. Attorney Allan M. Muir restated the position of the Complainant. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent MaineGeneral Medical Center unlawfully failed to provide reasonable accommodations for Complainant Diane L. Hebert. 5 in favor | 0 opposed.

H11-0252: Bruce Brown (Lewiston) v. Ronald Boucher (Saco) and H11-0253: Bruce Brown (Lewiston) v. Joshua Boucher (Saco): Attorney Patricia Ender restated the position of the Complainant. Attorney Paul Aranson restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Respondent Joshua Boucher created a hostile housing environment based on religion against Complainant Bruce Brown. 5 in favor | 0 opposed. Commissioner Clark moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that Respondent Ronald Boucher is liable for the hostile housing environment based on religion against Complainant Bruce Brown. 5 in favor | 0 opposed.

PA11-0570: Marion Doyle (Falmouth) v. Norway Savings Bank (Falmouth). Michael Doyle restated the position of the Complainant. Brian Scheibels restated the position of the Respondent. Investigator Domini Pham restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Norway Savings Bank discriminated against Complainant Marion A. Doyle in its place of public accommodations because of her physical disability. 5 in favor | 0 opposed.

E10-0166: Byron Nelson (Madison) v. United Steel Paper & Forestry Rubber Mfg., Energy Allied Industrial & Svc. Workers International Union, AFL-CIO, CLC (Pittsburgh, PA). Byron Nelson restated the position of the Complainant. Attorney Jonathan Beal restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC discriminated against Byron Nelson on the basis of age or perceived sexual orientation by subjecting him to less favorable terms and conditions of representation than others in his collective bargaining unit. 5 in favor | 0 opposed.

H11-0620: James Parham (Portland) v. Sea Cliff House Motel, LLC (Old Orchard Beach): Complainant was not present. Respondent was not present. Commissioner Chandler moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that the Sea Cliff House Motel, LLC discriminated against James Parham on the basis of race, color and disability by refusing to accept his general assistance voucher as payment for his motel room; and find **reasonable grounds** to believe that the Sea Cliff House Motel, LLC discriminated against James Parham on the basis of receipt of public assistance by refusing to accept his general assistance voucher as payment for his motel room; and find no reasonable grounds to believe that Sea Cliff House Motel, LLC retaliated against Parham by terminating his stay because he filed a complaint with the Human Rights Commission. 5 in favor | 0 opposed.

ADJOURN:

There being no further business to come before the Commission, the meeting was adjourned at 2:45 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.

- E10-0127: William Mercier (Lewiston) v. Mr. Bernard’s School of Hair Fashions, Inc. (Lewiston) NRG
- E10-0128: William Mercier (Lewiston) v. Lorraine Gadway (Lewiston) NRG
- E10-0140: Jeffrey Knight (Dixfield) v. My Abram, LLC (Greenwood) NRG
- E10-0190: Patrick O’Brien (New Gloucester) v. Maine Medical Center (Portland) NRG
- E10-0191: Mariah Rackliff (Jefferson) v. Merrymeeting Behavioral Health Associates (Brunswick) NRG
- E10-0210: Lorraine Skidgel (Brewer) v. Ross Manor (Bangor) NRG
- E10-0264: Linda Ford (Portland) v. First Radio Parish Church of America (Portland) NRG
- E10-0327: Kayani Benning (Augusta) v. State of Maine/Dept. of Administrative & Financial Svcs./Office of Information Technology (Augusta) NRG
- E10-0401: Janice Nicholson (Chapel Hill, N.C.) v. Central Maine Medical Center (Lewiston) NRG
- E10-0410: Wayne Johnson (Sullivan) v. The Talaria Company, LLC d/b/a The Hinckley Co.(Trenton) RG
- E10-0511: Santos Pastrana (South Portland) v. Counseling Services, Inc. (Saco) NRG
- E11-0068: Jason LeBlanc (Sacramento, CA.) v. Family Violence Project (Augusta) NRG

PA11-0291: Susan Bost (Readfield) v. State of Maine, Department of Labor, Bureau of Rehabilitation Services, Division of Vocational Rehabilitation (Augusta)	NRG
E11-0365: Annette Bailey (Oxford) v. FPM Donuts, Inc. d/b/a Dunkin Donuts (Auburn)	NRG
PA11-0398: Richard Steeves (Warren) v. State of Maine/Maine Dept. of Corrections/Maine State Prison (Augusta)	NRG
E11-0414: Christina Gray (Biddeford) v. Nationwide Payment Solutions LLC (Scarborough)	NRG
E11-0498: Randy Knowles (Glenburn) v. State of Maine Department of Corrections Mountain View Youth Development Center (Augusta)	NRG