



Maine Human Rights Commission

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COMMISSION MEETING MINUTES

19 Union Street ~ Augusta, Maine

December 17, 2012

Commissioner Vestal called the December 17th Commission meeting to order at 8:30 a.m. Present were Commissioners Paul Vestal, Sallie Chandler, and Deborah Whitworth.

Commissioner Vestal called for adoption of the agenda.

- Executive Director Amy Sneirson presented Complainant's request for a right-to-sue letter in case E11-0279, *Pendexter v. Captain Newick's*, which would remove the case from the agenda. Commissioner Chandler moved, seconded by Commissioner Whitworth, not to grant the right-to-sue letter. 3 in favor | 0 opposed.
- Executive Director Amy Sneirson requested that case H12-0321-A, *Glenn & Kathleen Hamilton (Naples, FL) v. Village Green Cumberland Homeowners' Association, Helen White and Ronald Ward*, be removed from the Agenda, as the case had been previously administratively dismissed and was listed on the agenda inadvertently.

Commissioner Chandler moved, seconded by Commissioner Whitworth, to approve the agenda as amended. 3 in favor | 0 opposed.

At 8:32 Commissioner A. Mavourneen Thompson arrived at the meeting.

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 Chandler moved, seconded by Commissioner Whitworth, to adopt the November 5, 2012 Commission Meeting Minutes. 4 in favor | 0 opposed.

ADMINISTRATION:

Personnel Report: Executive Director Amy Sneirson reported that Investigator Domini Pham resigned her position effective November 30th. Applications are being accepted through this week for a replacement. No other significant personnel changes since the Commission's last meeting.

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

- Commissioner Chandler moved, seconded by Commissioner Whitworth, to dismiss case E10-0337, Bernard V. Rite Aid of Maine, Inc., as the case has been resolved by the parties. 4 in favor | 0 opposed.
- Commissioner Whitworth moved, seconded by Commissioner Chandler, to dismiss case E10-0443, Pine Tree Legal Assistance v. Bonville, as the case has been resolved by the parties. 4 in favor | 0 opposed.

INVESTIGATION:

New Charges: Commission staff opened 70 new cases in November.

Administrative Dismissals: 16 cases were administratively dismissed in November.

Pre-determination Settlements: Since November, Commission staffers were responsible for obtaining settlements in 10 cases resulting in total monetary relief in excess of \$120,000 for complainants.

NEW BUSINESS:

Executive Director Amy Sneirson provided the FY 2012 Annual Report to the Commissioners; it has been provided to the Legislature.

Commission Counsel John P. Gause reviewed the status of the Proposed Rule Amendments to Chapter 2, Procedural rule, and Chapter 8, Housing Regulations of the Maine Human Rights Commission. With no questions from Commissioners the Commission will initiate the APA process to seek public comment.

LITIGATION: Moved to after Executive Session.

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

At 8:43 Commissioner Clark arrived at the meeting.

CASES VOTED ON:

The first case was taken out of order due to weather delays.

E11-0358: Angela J. Webber (Windham) v. Maine Business Center (Portland). Lawrence Kelley restated the position of the Respondent. Attorney Carol Garvin restated the position of the Complainant. Chief Investigator Barbara Lelli (for former Investigator Domini Pham) restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Whitworth, to reject the investigator's recommended decision of reasonable grounds and to find no reasonable grounds to believe that Maine Business Center terminated Complainant Angela J. Webber because of her sex (pregnancy). 3 in favor | 2 opposed (Chandler and Clark opposed).

E10-0565: Kyle Belch (Thorndike) v. Home Depot U. S. A. Inc. (Bangor). Due to the inclement weather, counsel for Respondent was not able to get to the meeting. Executive Director Amy Sneirson requested that case be tabled to the January 2013 Commission Meeting at Respondent's request; Complainant's counsel did not object. Commissioner Chandler moved, seconded by Commissioner Whitworth, to amend the Agenda to table case E10-0565: Kyle Belch (Thorndike) v. Home Depot U. S. A. Inc. (Bangor) 5 in favor | 0 opposed.

E11-0105: Jessica Manbeck (Lincolntonville) v. Thomaston Place Auction Galleries (Thomaston). Attorney William Maddox restated the position of the Complainant. Attorney Rebecca Webber restated the position

of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that the Respondent Thomaston Place Auction Galleries discriminated against Complainant Jessica Manbeck in employment because of disabilities or sex by terminating her employment. 5 in favor | 0 opposed.

At 10:05 Chair Vestal called for a 5 minute recess.

E11-0204: Joseph Chase (Rockland) v. Home, Hope and Healing, Inc. (Smithfield). Attorney Peter Lowe restated the position of the Respondent. Complainant was not present. Investigator Angela Tizon restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Whitworth, to reject the investigator's recommendation of reasonable grounds and to find no reasonable grounds to believe that Home, Hope and Healing, Inc. retaliated against Joseph Chase in violation of the Whistleblowers' Protection Act by removing him from his desired assignment and separating him from employment. 4 in favor | 1 opposed (Chandler opposed).

E11-0257: Neysan Bayat, MD (San Juan Capistrano, CA) v. Central Maine Medical Center (Lewiston). Attorney Howard Reben restated the position of the Complainant. Attorney Michael Poulin restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Chandler moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that Respondent Central Maine Medical Center discriminated against Dr. Neysan Bayat based upon race, color, ancestry/national origin and religion. 5 in favor | 0 opposed.

E11-0399: Donna Millett (Sabattus) v. City of Portland, Barron Center (Portland). Attorney Matthew Tarasevich restated the position of the Respondent. Complainant was not present. Chief Investigator Barbara Lelli (for former Investigator Domini Pham) restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Clark, to reject the investigator's recommendation of reasonable grounds and to find that there are no reasonable grounds to believe that Respondent City of Portland, Barron Center terminated the employment of Complainant Donna L. Millett because of her physical disability. 3 in favor | 2 opposed (Thompson and Chandler opposed).

E11-0648: Neal M. Rasmussen (Old Orchard Beach) v. Don's Sheet Metal, Inc. (Biddeford). Neal Rasmussen restated the position of the Complainant. Attorney Keith Jacques restated the position of the Respondent. Chief Investigator Barbara Lelli (for former Investigator Domini Pham) restated the facts of the case. Chair Vestal moved, seconded by Commissioner Chandler, to find **reasonable grounds** to believe that Respondent Don's Sheet Metal, Inc., terminated Complainant Neal M. Rasmussen's employment because he was regarded as having a physical disability. 3 in favor | 2 opposed. (Whitworth, Clark opposed).

H12-0321, H12-0321-B, and H12-0321-C: Glenn and Kathleen Hamilton (Naples, FL) v. Re/Max By The Bay, David M. Banks, Jessica Vamvakias, and Village Green Cumberland, LLC (Portland). Complainants were not present. Commissioner Chandler moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondents Re/Max By The Bay, David M. Banks, Jessica Vamvakias, or Village Green Cumberland, LLC discriminated against Complainants for protected activity under the Maine Human Rights Act. 5 in favor | 0 opposed.

H12-0354 and H12-0355: Athea Manuel and Gary Manuel (Bangor) v. Sonia Inc. d/b/a Cozy Inn (Brewer). Complainants were not present. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent Sonia, Inc. d/b/a Cozy Inn discriminated against or harassed Complainants Gary E. Manuel or Athea Manuel on the basis of race, sex, disability, receipt of public assistance or familial status. 5 in favor | 0 opposed.

E11-0674: Rebecca Albright (Otis) v. Regional School Unit 24 (Sullivan). Attorney Bret Baber restated the position of the Complainant. Respondent was not present. Commissioner Chandler moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that the Complainant Rebecca Albright was subjected to illegal sexual harassment, or quid pro quo or a hostile work environment, by the Respondent. 5 in favor | 0 opposed.

EXECUTIVE SESSION:

Commissioner Chandler moved, seconded by Commissioner Clark, to move into executive session at 12:40 p.m. to discuss litigation with Commission Counsel pursuant 1 M.R.S.A. §405(6)(E). 5 in favor | 0 opposed.

At approximately 1:19 p.m. Commissioner Chandler moved, seconded by Chair Vestal, to come out of executive session. 5 in favor | 0 opposed.

LITIGATION:

At approximately 1:20 p.m., Commissioner Chandler moved, seconded by Commissioner Whitworth, for the Commission to file a court complaint in the following “reasonable grounds” case:

- E10-0497: Malyun Isman v. Granite Bay Care, Inc. (terminating employment because of sex (pregnancy)). 5 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Thompson, that the Commission should file a notice of appeal regarding the Superior Court’s grant of summary judgment for RSU 26 in Doe v. Clenchy, et al. 5 in favor | 0 opposed.

Commissioner Chandler moved, seconded by Commissioner Whitworth, that the Commission should file a complaint in court alleging discrimination in the public interest in the non-conciliated, reasonable-grounds case of Malyun Isman v. Granite Bay Care, Inc. (E10-0497). 5 in favor | 0 opposed.

ADJOURN:

There being no further business to come before the Commission, Chair Vestal adjourn the meeting at 1:21 p.m.

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.

CONSENT AGENDA

E11-0147:	Jennifer Burnham f/k/a Hopkins (Westbrook) v. Integrated Behavioral Healthcare (Scarborough)	NRG
E11-0157:	Alicia Vannah f/k/a White (Norridgewock) v. Sparetime Recreation (Waterville)	NRG
E11-0270:	Richard Phillips (Biddeford) v. Scarborough School Department (Scarborough)	NRG
E11-0279:	Tara Pendexter (South Portland) v. Captain Newick’s (South Portland)	NRG
E11-0436:	Barry Stevens (Oakland) v. Bath Iron Works Corporation (Bath)	NRG
PA11-0547:	Wanda Lyford Moran (Bangor) v. Hannaford Bros. Co. (Scarborough)	NRG
E11-0577:	Jessica F. Stanley (West Enfield) v. Cummings Health Care Facility, Inc. (Howland)	NRG
E11-0614:	William Gilway (Winterport) v. KidsPeace National Centers of New England, Inc. (Ellsworth)	NRG
E11-0734:	Timothy Beaulieu (Gardiner) v. Maine General Medical Center (Brewer)	NRG
E11-0757:	Timothy Beaulieu (Gardiner) v. Maine General Rehabilitation & Nursing Care (Brewer)	
E11-0758:	Timothy Beaulieu (Gardiner) v. Maine General Health (Brewer)	
E11-0748:	Wilbert Smith (Bath) v. Applebee’s Services, Inc. (Kansas City, Mo)	NRG
E12-0023:	Barbara Mann (Bangor) v. Sunbury Primary Care d/b/a Sunbury Medical Associates (Bangor)	RG
E12-0066:	Paul Malone (Millinocket) v. Bangor Abatement, Inc. (Hampden)	NRG
E12-0165:	Judy Orr (West Bath) v. Brunswick School Department (Brunswick)	NRG
E12-0228:	Thomas Delucca (Lewiston) v. Tambrands, Inc. d/b/a Procter & Gamble (Auburn)	NRG
E12-0253:	John Whitmore (Old Orchard Beach) v. J C Penney Corporation, Inc. (South Portland)	NRG
H12-0270:	Jennifer Begin, individually & o/b/o Minors (Old Orchard Beach) v. Marcotte Motor Court, LLC/David Marcotte/Sally Marcotte/Brian Marcotte/Bonny Marcotte (Old Orchard Beach)	NRG