



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

August 10, 2009

Chair Paul Vestal called the August 10, 2009 Commission meeting to order at 8:15 a.m. Present were Commissioners: Paul Vestal, Chair; Jadine O'Brien; Sallie Chandler; Joseph Perry; and Kenneth Fredette.

Paul Vestal called for adoption of the agenda.

- Executive Director Patricia Ryan requested that case *PA08-0013: Gilbert v. Sea Pier* be removed from the agenda due to settlement between the parties.
- Executive Director Patricia Ryan requested that case *E08-0434: Sewall v. Cianbro Corp* be tabled to the September 21st agenda at the request of the parties.
- Executive Director Patricia Ryan requested that case *E07-0740: Rocque v. Morse Auto Sales* be moved from the morning to the afternoon agenda.
- Executive Director Patricia Ryan requested that case *PA08-0455: Marshall v. Secretary of State* be moved from the afternoon to the morning agenda.
- Executive Director Patricia Ryan requested that case *H09-0097: Jensen v. 26 A Street Lodging* be moved to the morning agenda.
- Executive Director Patricia Ryan requested that case *H09-0134: Jacobsen v. Bangor Housing* be moved from the afternoon to the morning agenda.
- Executive Director Patricia Ryan requested that case *H09-0187: Perreault v. Lewiston Housing Lodging* be moved from the afternoon to the morning agenda.
- Executive Director Patricia Ryan requested that case *PA07-0688 Zinke v. Eastern Frontier* remain on the regular agenda. The Respondent did make a submission and did permit the case to appear on the Consent Agenda.
- Executive Director Patricia Ryan requested that case *H07-0692, Lizotte v. Boredsky et al* be moved to the afternoon list of cases.
- Executive Director Patricia Ryan requested that case *E08-0027, Mercier v. Cianbro*, be moved to the afternoon list of cases.

- Executive Director Patricia Ryan requested that case E08-0324, *Ross v. J.P. Morgan Chase*, be tabled to the Commission's September 21st agenda, pending settlement.
- Executive Director Patricia Ryan requested that the conciliation agreement in case *E08-0011: Nield v. Oak Island Seafood* be added to the agenda.

Commissioner O'Brien moved, seconded by Commissioner Chandler to adopt the revised agenda as amended.

5 in favor, 0 opposed

CONSENT AGENDA (see list attached)

Commissioner O'Brien moved, seconded by Commissioner Chandler to accept the Investigator's recommendations in each of the cases on the Consent Agenda. 5 in favor, 0 opposed

MINUTES

Commissioner O'Brien moved, seconded by Commissioner Chandler to adopt the June 8th, 2009 Commission Meeting Minutes as written. 5 in favor, 0 opposed.

QUARTERLY PROGRAM REVIEW

Inventory Status Reports & Resolutions: There were 681 open cases at the end of June 2009. The Commission closed 142 cases during the preceding quarter. 23 of those cases were closed providing some benefit to Complainants. The monetary amount recovered for Complainants during that time period was \$133,132.

Training and Education – Commissioners reviewed Compliance Officer Fran Davis' third quarter report and it was placed on file.

Litigation - Commissioners agreed to move this item to another part of the agenda when the Commission could go into Executive Session..

Financial Report - Commissioners reviewed the quarterly financial report and it was placed in the file.

ADMINISTRATION

Personnel Report: Commissioners reviewed the report dated July 30, 2009 and it was placed on file.

COMPLIANCE

Conciliation Agreement:

- *E08-0011: Nield v. Oak Island Seafood*: Commissioner O'Brien moved, seconded by Commissioner Chandler to accept the conciliation agreement. 5 in favor, 0 opposed.

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

INVESTIGATION

- New Charges: Commission staff opened 77 new cases in June; and 66 new cases in July.

- Administrative Dismissals: Commission staff administratively dismissed 19 cases in June; 17 cases in July.
- Pre-determination Settlements: During the months of June and July, investigators were responsible for obtaining settlements in 12 cases resulting in a total monetary relief in excess of \$67,000.

NEW BUSINESS:

Executive Director Ryan recommended that the Sexual Orientation discussion be tabled to a future Commission Agenda in order to involve organizations representing various levels of schools before further consideration. Commissioner O'Brien moved, seconded by Commissioner Chandler move Sexual Orientation Guidance discussion to a future meeting. 5 in favor, 0 opposed.

Executive Director Ryan reviewed the status of the discussion of Commission jurisdiction over prisons & jails. Commissioner Vestal expressed reservation that prisons and jails were not public accommodations. Commissioner Fredette moved, seconded by Commissioner O'Brien that prisons & jails are not within the jurisdiction of the Maine Human Rights Act. 3 in favor, 2 opposed. (Chandler & Perry opposed)

EXECUTIVE SESSION:

Commissioner Chandler moved, seconded by Commissioner O'Brien to move into executive session to discuss litigation with Commission Counsel pursuant to 1 M.R.S.A. §405(6)E and (6)F. 5 in favor, 0 opposed

Commissioner Chandler moved, seconded by Commissioner O'Brien Chandler to move out of executive session. 5 in favor, 0 opposed

LITIGATION:

- Commissioner O'Brien moved, seconded by Commissioner Chandler to file a complaint in case PA/ED08-0239 Parent of Minor Student v. School Union 87, et. al. 4 in favor, 1 opposed. (Fredette opposed).
- Commissioner O'Brien moved, seconded by Commissioner Chandler that the Commission should continue litigation in case E07-0524: Tammy Chaput v. Roof Specialists, Inc. 5 in favor, 0 opposed.
- Commissioner O'Brien moved, seconded by Commissioner Chandler not to file a complaint in case E08-0192: Seck v. Gagne Precast. 5 in favor, 0 opposed.
- Commissioner O'Brien moved, seconded by Commissioner Chandler not to file a complaint in case E08-0624: Hoffman v. Morning Star. 5 in favor, 0 opposed.

CASES VOTED ON:

E07-0621(A-D): Gerard Moore (Portland) v. Fraternal Order of Eagles Casco Aerie 565, S. Morin, F. Hayes, J. Ross & D. Brown (Portland): Gerard Moore restated the position of the Complainant. Attorney

Tom McKeon restated the position of the Respondent. Commissioner Fredette moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that Respondent retaliated against Complainant in violation of the Whistleblowers Protection Act. 5 in favor, 0 opposed. Commissioner Fredette moved, seconded by Commissioner Chandler to find Jay Weisbert, Stephen Morin, Frederick Hayes, John Ross, and Denver Brown are not proper Respondents. 5 in favor, 0 opposed

E07-0706: Larry Buteau (Sabattus) v. Affiliated Computer Services (TX): Respondent was not present. Complainant was not present. Commissioner O'Brien moved, seconded by Commissioner Vestal to find no reasonable grounds to believe that unlawful employment discrimination because of national origin has occurred. 5 in favor, 0 opposed.

PA08-0094: Linda Clifford (Litchfield) v. MaineGeneral Medical Center (Augusta): Attorney Curtis Webber restated the position of the Complainant. Attorney Emily Bloch restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner O'Brien moved, seconded by Commissioner Fredette, to find no reasonable grounds to believe that respondent was discriminated against because of a mental disability. 5 in favor, 0 opposed.

PA08-0426: Linda Clifford (Litchfield) v. Crisis & Counseling Centers, Inc. (Augusta): Attorney Curtis Webber restated the position of the Complainant. Attorney Bradley Pattershall restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Perry moved, seconded by Commissioner Chandler, to find no reasonable grounds to believe that respondent was discriminated against because of a mental disability. 4 in favor, 1 opposed. (O'Brien opposed)

E08-0165(A-B): Anders Benson (Brownville) v. Montreal Maine & Atlantic Railway (Hermon) and Rail World, Inc. (IL): Attorney Lisa Bufler restated the position of the Complainant. Attorney Charles Einseidler restated the position of the Respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner O'Brien moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that unlawful employment discrimination because of mental disability has occurred. 5 in favor, 0 opposed.

At 10:37 Chair Vestal called for a 5 minute break.

PA08-0455: Vera Marshall (Warren) v. State of Maine/Secy of State/Motor Vehicles (Augusta): Vera Marshall restated the position of the Complainant. Assistant Attorney General Susan Herman restated the position of the Respondent. Commissioner O'Brien moved, seconded by Commissioner Fredette to find no reasonable grounds to believe that unlawful disability discrimination has occurred. 5 in favor, 0 opposed.

H09-0097: Alyssa Jensen (S Portland) v. 26 A Street Lodging & R. Trippel (Portland): Complainant was not present. Commissioner O'Brien moved, seconded by Commissioner Chandler to find no reasonable grounds to believe that unlawful housing discrimination due to disability has occurred. 5 in favor, 0 opposed.

H09-0134(A-B): Sheila Jacobsen (Bangor) v. Bangor Housing Authority & E. Coffey (Bangor): Attorney Patricia Ender restated the position of the Complainant. Attorney Ed Gould restated the position of the Respondent. Commission Chandler moved, seconded by Commissioner O'Brien to find **reasonable grounds** to believe that unlawful housing discrimination has occurred for failure to provide a reasonable accommodation. 5 in favor, 0 opposed.

H09-0187(A-B): Madeleine Perreault (Lewiston) v. Lewiston Housing Authority & C. Harris (Lewiston): Madeline Perreault restated the position of the Complainant. Attorney Michael Malloy

restated the position of the Respondent. Investigator Angela Tizon restated the facts of the case. Commissioner O'Brien moved, seconded by Commissioner Perry to find no reasonable grounds to believe that Respondents discriminated against Complainant on the basis of disability by denying a reasonable accommodation. 5 in favor, 0 opposed.

At 12:59 p.m. Chair Vestal called for a lunch break until 1:07 p.m.

E08-0270: Denise Rogers (Old Orchard B.) v. Michele's Garden Café, Inc. (Old Orchard B.): Attorney Alan Townsend restated the position of the Complainant. Attorney Nicole Lorenzatti restated the position of the Respondent. Commissioner Fredette moved, seconded by Commissioner Chandler to find reasonable grounds to believe unlawful employment discrimination because of disability has occurred. 2 in favor, 3 opposed. (O'Brien, Perry, Vestal opposed). Motion failed.

E08-0544: Crystal Weyant (f/k/a Beaudet) (W Paris) v. Harbor Management Corp (MA): Attorney Chad Hansen restated the position of the Complainant. Attorney Brent Singer restated the position of the respondent. Commissioner Fredette moved, seconded by Commissioner Perry to find **reasonable grounds** to believe that unlawful employment discrimination because of sexual harassment has occurred. 5 in favor, 0 opposed.

E08-0545: Crystal Weyant (f/k/a Beaudet) (W Paris) v. Labor Ready Northeast, Inc. (WA): Attorney Chad Hansen restated the position of the Complainant. Attorney Glenn Israel restated the position of the respondent. Chief Investigator Barbara Lelli restated the facts of the case. Commissioner O'Brien moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that unlawful employment discrimination because of sexual harassment has occurred. 5 in favor, 0 opposed.

E08-0639: Edward Murphy (Belfast) v. Waldo Community Action (Belfast): Edward Murphy restated the position of the Complainant. Attorney Stephen Langsdorf restated the position of the Respondent. Commissioner Fredette moved, seconded by Commissioner O'Brien to find no reasonable grounds to believe that unlawful employment discrimination because of age or whistleblowers retaliation has occurred. 4 in favor, 0 opposed, 1 abstained (O'Brien abstained). Commissioner Fredette moved, seconded by Commissioner Perry to find **reasonable grounds** to believe that unlawful employment discrimination because of sex has occurred. 4 in favor, 0 opposed, 1 abstained (O'Brien abstained).

PA07-0688: Alexandra Zinke (TN) v. Eastern Frontier Educational Foundation (Jonesport): Complainant was not present. Respondent was not present. Commissioner O'Brien moved, seconded by Commissioner Chandler to find **reasonable grounds** to believe that Complainant was subject to unlawful discrimination in public accommodation because of sex (hostile environment and retaliation) by Respondent. 5 in favor, 0 opposed.

H07-0692: Deanna Lizotte (Glenburn) v David Boredsky d/b/a Dover Mortgage (NH): Attorney Jeffrey Neil Young 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 Fredette moved, seconded by Commissioner O'Brien to find no reasonable grounds to believe unlawful housing discrimination because of sex has occurred. . 5 in favor, 0 opposed. Commissioner Fredette moved, seconded by Commissioner O'Brien to find no reasonable grounds to believe that unlawful housing discrimination because of retaliation has occurred. . 5 in favor, 0 opposed.

E07-0740: Ventura Rocque (Pittston) v. Lester Morse Auto Sales (Wiscasset): Attorney Chad Hansen restated the position of the Complainant. Attorney Elliot Field restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Fredette moved, seconded by

Commissioner Chandler to find **reasonable grounds** to believe Respondent was terminated because of alcoholism and the need for a reasonable accommodation.

ADJOURN:

There being no further business to come before the commission, the meetings was adjourned at 3:42 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.

E07-0645:	Gene Whitney (Limerick) v. Genesis HealthCare d/b/a River Ridge (Kennebunk)	NRG
E08-0027:	Linwood Mercier (Skowhegan) v. Cianbro Corporation (Pittsfield)	NRG
E08-0093:	Jessica Dello Russo (Quebec) v. Cann Did Inv.d/b/a Spirit Halloween (S Portland)	RG
E08-0124:	Sarah Palombo (MA) v. Island Seafood, LLC (Elliot)	NRG
E08-0166:	Katherine Perry (Brunswick) v. UNUM Group (Portland)	NRG
E08-0176:	Carol Isabelle (Windham) v. Peter Colesworthy (North Yarmouth)	NRG
E08-0183:	Pamela Babcock (Blue Hill) v. Rite Aid of Maine, Inc. (PA)	NRG/RG
E08-0294:	Tonya Psarros (Harrison) v. Concurrence LLC (Windham)	RG
PA08-0629:	Thomas Hart (Warren) v. State of Maine/Corrections/Maine State Prison	NRG
H09-0115(A-B):	Loretta Glidden & Samuel Warner (Auburn) v. Double Eagle Property & Breton (Auburn)	NRG