



# Maine Human Rights Commission

# 51 State House Station, Augusta, ME 04333-0051

*Physical location: 19 Union Street, Augusta, ME 04330*

Phone (207) 624-6290 ▪ Fax (207) 624-8729 ▪ TTY: Maine Relay 711  
[www.maine.gov/mhrc](http://www.maine.gov/mhrc)

**Amy M. Sneirson**  
EXECUTIVE DIRECTOR

**Barbara Archer Hirsch**  
COMMISSION COUNSEL

## COMMISSION MEETING MINUTES

*19 Union Street ~ Augusta, Maine*

**December 16, 2013**

Commissioner Chandler called the December 16, 2013 Commission meeting to order at 8:32 a.m. Present were Commissioners Sallie Chandler, Deborah Whitworth, A. Mavourneen Thompson.

### AGENDA

Executive Director Amy Sneirson requested that the following cases be tabled to the January 27, 2014 meeting agenda at the request of the parties.

- E12-0225: Aaron Davis (Ellsworth) v. Van Syckle, Inc. (Bangor)
- E13-0173: Ray Brown (Lewiston) v. East Branch Delivery Services, Inc. (Auburn)
- E11-0719: Linda Faas (Addison) v. Country Pride Cleaning Service, Inc. (Sebec)

Executive Director Amy Sneirson also requested that case PA12-0004: June Ellis (Monmouth) v. Spectrum Generations (Augusta) be tabled to the March 31, 2014 meeting.

Commissioner Chandler called for adoption of the agenda as amended. Commissioner Thompson moved, seconded by Commissioner Whitworth, to adopt the agenda as amended. 3 in favor | 0 opposed.

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

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

### MINUTES

Commissioner Thompson moved, seconded by Commissioner Whitworth, to adopt the November 4, 2013 Commission Meeting Minutes with one amendment. The minutes inaccurately stated on page 4, Litigation, that the Commissioners voted in favor of filing a complaint in case E11-0651, Farnsworth v. KVCAP. The minutes will be revised to state that the Commissioners requested further information prior to voting whether to file a complaint in that case.

### ADMINISTRATION

Personnel Report: Executive Director Amy Sneirson reported that there were significant personnel changes.

### COMPLIANCE

Commissioners reviewed the compliance report showing no successful conciliations, no unsuccessful conciliations, and eight conciliations in progress. It was placed on file.

## **INVESTIGATION**

New Charges: Commission staff opened 49 new cases in October and 67 new cases in November.

Administrative Dismissals: The Executive Director administratively dismissed 27 cases in October and 15 cases in November.

Pre-determination Settlements: Since October 19, 2013, 17 cases resulted in settlements with total monetary relief in excess of \$87,700 for complainants.

## **NEW BUSINESS**

The Commission received three new grants from HUD. HUD completed the 2013 HUD Compliance Audit.

The Commission has received one written comment on the proposed amendments to Chapter 3, Employment Regulations (repeal and replace), and to Chapter 2, the Commission's Procedural Rule (to allow the Commission to receive payment by parties for mediations).

After consideration of the written public comment submission, Commissioner Thompson moved, seconded by Commissioner Whitworth, to adopt the proposed Chapter 3 and Chapter 2 rules as drafted. 3 in favor | 0 opposed.

Commissioner Thompson moved, seconded by Commissioner Whitworth, to approve the amended Mediation Program handbook to include a proposed waiver request form. 3 in favor | 0 opposed.

At 8:41 a.m. Commissioner Chandler called for a five minute recess.

## **CASES VOTED ON 8:45 A.M.:**

At 8:59 A.M. Commissioner Clark arrived at the meeting.

PA12-0430: Kenneth Stanhope (Dennysville) v. Hing Garden Restaurant, Inc. (Machias): Attorney Erin Murphy restated the position of the Respondent. Complainant was not present. Investigator Michele Dion restated the facts of the case. Commissioner Clark moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent Hing Garden Restaurant, Inc. violated the Maine Human Rights Act by asking impermissible questions concerning the need for a service animal. 4 in favor | 0 opposed. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent Hing Garden Restaurant, Inc. discriminated against Mr. Stanhope on the basis of disability by refusing to allow him to remain on the premises with a service animal. 4 in favor | 0 opposed.

PA12-0470: Kenneth Stanhope (Dennysville) v. JH & B, Inc. d/b/a Blue Bird Ranch Family Restaurant (Machias). Respondent was not present. Complainant was not present. Investigator Dion restated the facts of the case. Commissioner Thompson moved to find reasonable grounds to believe that Respondent JH and B, Inc. d/b/a Blue Bird Ranch Family Restaurant, Inc. violated the Maine Human Rights Act by asking impermissible questions concerning the need for a service animal. The motion was not seconded; the motion failed. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that Respondent JH and B, Inc. d/b/a Blue Bird Ranch Family Restaurant, Inc. violated the Maine Human Rights Act by asking impermissible questions concerning the need for a service animal. 3 in favor | 1 opposed. (Thompson opposed). Commissioner Thompson moved, seconded by Commissioner Whitworth, to

find no reasonable grounds to believe that Respondent JH and B, Inc. d/b/a Blue Bird Ranch Family Restaurant, Inc. discriminated against Mr. Stanhope on the basis of disability by refusing to allow him to remain on the premises with a service animal. 4 in favor | 0 opposed.

E11-0638: Donna Chapman (Windham) v. Operation Home Front, Inc. (San Antonio, TX). Commissioner Chandler recused herself; Commissioner Thompson chaired the hearing. Attorney Elizabeth Mitchell restated the position of the Complainant. Attorney Stephen Langsdorf restated the position of the Respondent. Investigator Tizon restated the facts of the Case. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe Operation Homefront, Inc., Ramona Cook, or Abigail Ross discriminated against Donna Chapman based on sex or retaliated against her in violation of the MHRA and WPA by terminating her employment after she complained of illegal activity. 2 in favor | 1 opposed (Thompson opposed) | 1 recused (Chandler recused).

PA12-0475: Kenneth Stanhope (Dennysville) v. U.S. Cellular (Machias): Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent U.S. Cellular discriminated against Kenneth Stanhope on the basis of disability by denying him access to the services or premises of the public accommodation based on disability. 4 in favor | 0 opposed.

PA12-0537: Kenneth Stanhope (Dennysville) v. R. H. Foster Energy, LLC d/b/a Fosters on the Run (Hampden). Complainant was not present. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent R.H. Foster Energy, LLC d/b/a Fosters on the Run discriminated against Mr. Stanhope on the basis of disability by refusing to allow him to remain on the premises with a service animal. 4 in favor | 0 opposed.

PA13-0271: Kenneth Stanhope (Dennysville) v. Pineo Hardware, Inc. (Machias). Complainant was not present. Commissioner Clark moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent Pineo Hardware, Inc. discriminated against Mr. Stanhope on the basis of disability. 4 in favor | 0 opposed.

E12-0025: Jennifer Ma Sims (East Winthrop) v. AOS # 97 (Winthrop). Attorney Elek Miller restated the position of the Respondent. Attorney Peter Bickerman restated the position of the Complainant. Investigator Dion restated the facts of the case. Commissioner Thompson moved to find no reasonable grounds to believe that Respondent AOS #97 discriminated against Complainant Jennifer Sims in employment due to her race, ancestry and national origin. Motion was not seconded; it failed. Commissioner Whitworth moved, seconded by Commissioner Clark, to find **reasonable grounds** to believe that Respondent AOS #97 discriminated against Complainant Jennifer Sims in employment due to her race, ancestry and national origin and reasonable grounds to believe that Respondent AOS #97 retaliated against Complainant Jennifer Sims for engaging in protected activity in violation of the Whistleblowers' Protection Act. 3 in favor | 1 opposed. (Thompson opposed).

E12-0500: John MacMillan (Buxton) v. AAA Northern New England (Portland). Attorney James Hunt restated the position of the Complainant. Attorney Eric Uhl restated the position of the Respondent. Investigator Victoria Ternig restated the facts of the case. Commissioner Clark moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent AAA of Northern New England discriminated against Complainant John MacMillan in employment due to his age or perceived disability, or due to his engaging in protected activity in violation of the Maine Human Rights Act, or by making an illegal medical inquiry, in violation of the Maine Human Rights Act. 4 in favor | 0 opposed.

At 10:50 Commissioner Chandler called for a 10-minute recess.

E12-0031: Gerald Kamke (Lisbon) v. Town of Lisbon (Lisbon) and E12-0032: Gerald Kamke (Lisbon) v. Ryan Leighton (Lisbon): Attorney Roger Therriault restated the position of the Respondent. Attorney Aubrey Russell restated the position of the Complainant. Investigator Robert Beauchesne restated the facts of the Case. Commissioner Clark moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Complainant was subjected to disability discrimination in either the characterization of his leave or in an alleged threat to his employment. 4 in favor | 0 opposed. Commissioner Whitworth moved to find no reasonable grounds to believe that the Complainant was subjected to disability discrimination when the Respondents Town of Lisbon and Ryan Leighton required him to undergo an independent medical examination. Motion was not seconded, and failed. Commissioner Clark moved, seconded by Commissioner Thompson, to find **reasonable grounds** to believe that the Complainant was subjected to disability discrimination when the Respondents Town of Lisbon and Ryan Leighton required him to undergo an independent medical examination. 3 in favor | 1 opposed. (Whitworth opposed).

The following case was taken out of order:

PA12-0483: Jim Ramnaraine (Minneapolis, MN) v. The Ogunquit, LLC (Ogunquit). Kurt Lavoie, owner of Ogunquit Inn, restated the position of the Respondent. Complainant was not present. Investigator Barbara Lelli restated the facts of the case. Commissioner Clark moved, seconded by Commissioner Whitworth, to find **reasonable rounds** to believe that Respondent The Ogunquit Inn, LLC denied Complainant Jim C. Ramnaraine the full benefits and enjoyment of a place of public accommodation on the basis of disability. 4 in favor | 0 opposed.

At 11:40 AM Commissioner Chandler called for a one hour lunch recess.

At 12:44 Commissioner Chandler called the afternoon session to order.

#### **CASES VOTED ON 12:45 P.M.:**

E12-0081: David Potter (Frenchville) v. Town of Frenchville (Frenchville). Complainant was not present. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that Complainant David M. Potter was subjected to unlawful employment or retaliation based upon protected whistleblower activity or by Respondent Town of Frenchville. 4 in favor | 0 opposed.

E12-0238: Patricia Chelate (Saco) v. Rite Aid of Maine (Camp Hill, PA). Attorney Eric Cote restated the position of the Complainant. Attorney Carie Torrence restated the position of the Respondent. Investigator Robert Beauchesne restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Clark, to find no reasonable grounds to believe that Complainant Patricia L. Chelate was subjected to unlawful disability discrimination in her employment with Respondent Rite Aid of Maine, Inc. 4 in favor | 0 opposed.

E13-0267: Larry Casey (Pittsfield) v. State of Maine, Department of Corrections, Mountain View Youth Development Center (Augusta). Complainant was not present. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent State of Maine/Dept. of Corrections/Mountain View Development Center discriminated against Complainant Larry Casey on the basis of a physical or mental disability, or retaliated against him for engaging in protected conduct. 4 in favor | 0 opposed.

**EXECUTIVE SESSION:**

At 1:13 p.m. Commissioner Thompson moved, seconded by Commissioner Whitworth, to move into executive session to discuss litigation with Commission Counsel pursuant 1 M.R.S. §405(6)(E). 4 in favor | 0 opposed.

At approximately 1:41 p.m. Commissioner Clark moved, seconded by Commissioner Whitworth, to come out of executive session. 4 in favor | 0 opposed.

**LITIGATION:**

Commissioner Thompson moved, seconded by Commissioner Whitworth, not to file a complaint in the “reasonable grounds” case E11-0495, Danforth v. Kennebec Valley Dental Center (whistleblower retaliation). 4 in favor | 0 opposed.

Commissioner Clark moved, seconded by Commissioner Chandler, to file a complaint in the “reasonable grounds” case E11-0651, Farnsworth v. KVCAP (disability discrimination). 3 in favor | 1 opposed (Whitworth opposed).

**ADJOURNMENT:**

There being no further business to come before the Commission, Commissioner Thompson moved, seconded by Commissioner Clark to adjourn the meeting at 1:41 PM. 4 in favor | 0 opposed.

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**

E11-0706:	James Patterson (Winterport) v. United Cerebral Palsy of Northeastern Maine (Bangor)	NRG
E11-0711:	Tracey Fox-Bartels (Bucksport) v. Katahdin Valley Health Center (Patten)	NRG
E11-0712:	Maureen Goff (New Gloucester) v. OSC Sports, Inc. d/b/a Olympia Sports (Westbrook)	NRG
E12-0037:	Balenda Ganem (Bangor) v. NFI North, Inc. (Contoocook, NH)	NRG
E12-0086:	Boyd Fortier (Jackman) v. Jackman Utility District (Jackman)	NRG
E12-0119:	Glenice Lear (Morrill) v. Waldo Community Action Partners (Belfast)	NRG
E12-0179:	Peter Sargent (Belgrade Lakes) v. State of Maine, Department of Professional & Financial Regulation (Augusta)	NRG
E12-0215:	Perri Peterson (Dixmont) v. Robert Veinote (Newburgh)	RG
E13-0252:	Dawn Almeida (Lisbon) v. TD Bank N.A. (Wilmington, DE)	NRG
E12-0271:	Joyce McEwen (Martinez, GA) v. EBL, Inc. d/b/a Aerie Restaurant (Medway)	NRG
E12-0300:	Dana J. Farrington (Biddeford) v. Biddeford School Department (Biddeford)	NRG
E12-0343:	Justin Reber (Athens) v. Wal-Mart Stores East LP (Palmyra)	NRG
E12-0343-A:	Justin Reber (Athens) v. Tressa Muir (Palmyra)	NRG
E12-0408:	Sadie Beardsworth (Blue Hill) v. Etchemin Properties Ltd. d/b/a Dennett’s Wharf (Castine)	NRG
E12-0414:	Linda Ryder (Rockland) v. Home Depot USA, Inc. (Rockland)	NRG
E12-0463:	Arthur Jasmin (Detroit) v. Eastern Maine Community College (Bangor)	NRG
E12-0464:	Arthur Jasmin (Detroit) v. Maine Community College System (South Portland)	NRG
E12-0555:	Heather Smith (South Portland) v. Aetna Life Insurance Company (Hartford, CT)	NRG
E12-0586:	Michael Record (Oxford) v. TNT Deems, LLC (Norway), & Marvindegon-Med34, LLC d/b/a Grease Lighning (Norway)	RG
E12-0588:	Wayne Broderick (South Portland) v. Goodwill Industries (Portland)	NRG
E13-0005:	Jami Baxter (Jay) v. Regional School Unit 52, Maine Administrative District 52 (Turner)	NRG
PA13-0051-A:	Renard Duckett (Brunswick) v. Stephen Jones d/b/a 7-Eleven Store # 32545A (Brunswick)	RG
E13-0255:	Monica Emmons (Lyman) v. K & K Enterprises (Sanford)	NRG
PA13-0279:	Joelle Curvais (Mexico) v. Road Hog Express (Rumford)	NRG
H13-0301:	Randy Belanger (Oakland) v. Ewing Partners (Belgrade)	NRG
H13-0302:	Randy Belanger (Oakland) v. Dino Cacioppo (Belgrade)	NRG
H13-0303:	Randy Belanger (Oakland) v. Amy & Jeff Veilleux (Oakland)	NRG

H13-0316:	Esther O'Brien and O'Brien o/b/o minor children (Harpwell) v. Cundy's Harbor Home, LLC (Harpwell)	NRG
H13-0317:	Esther O'Brien and O'Brien o/b/o minor children (Harpwell) v. Dennis Austin (Harpwell)	NRG
PA12-0429:	Kenneth Stanhope (Dennysville) v. Town of Machias, Police Department (Machias)	NRG
PA12-0502:	Kenneth Stanhope (Dennysville) v. Town of Machias, Police Department (Machias)	NRG
PA12-0473:	Kenneth Stanhope (Dennysville) v. L.L. Bean, Inc. (Ellsworth)	NRG
PA12-0538:	Kenneth Stanhope (Dennysville) v. Town of Machias, Police Department (Machias)	NRG
PA13-0272:	Kenneth Stanhope (Dennysville) v. Town of Machias, Police Department (Machias)	NRG