

Maine – Introduction

This information is intended to familiarize women with employment discrimination law in Maine, so that they may assess the strengths of any claims they may have, and understand their rights so that they may informatively talk to their employers. Generally, the Maine Human Rights Act (MHRA) makes it illegal to treat women differently than men in employment, except when based on a “bona fide occupational qualification” (the relevant sections will explain what this means). While the focus here is on sex, it should be noted that the MHRA also makes it illegal to discriminate based on race or color, sexual orientation, physical or mental disability, religion, age, or ancestry or national origin. Women should read the Filing Procedures section to understand the process involved in bringing a claim and what remedies they should expect.

Anyone seriously considering taking legal action should consult an attorney. Women should also be aware that those who take their cases to court are not often successful, and large awards are rare. Women may be more successful pursuing alternative dispute resolution methods such as those offered by the Maine Human Rights Commission (MHRC), where all claims must begin.

Maine – What Does the Law Say?

Where is the law regarding sex discrimination in employment in Maine found?

Sex discrimination in Maine is governed by the Maine Human Rights Act (MHRA), 5 M.R.S.A § 4572.¹

To whom does the MHRA apply?

The MHRA applies to all employers, as well as labor organizations and employment agencies. Unlike some states, there is no minimum number of employees an employer must have. However, non-profit religious and non-profit fraternal organizations are exempted from this statute for the purposes of sex discrimination.²

An “employee” is defined as any individual employed by an employer, unless they are employed by their parent, spouse, or child.³

What does the MHRA make illegal?

Generally, the MHRA makes it illegal to treat women differently than men in employment, except when based on a “bona fide occupational qualification.” This is explained in further detail in the sections under “What kind of discrimination does the law cover?” There are several different forms of employment discrimination. See “What kind of discrimination does the law cover?” for more information.

Is there a benefit in pursuing a claim under Maine law as opposed to federal law?

Yes. Federal law only applies to employers with 15 or more employees, where Maine law has no minimum requirement. Many women choose to pursue their claims under both federal and state law.

Is it ever okay to treat women differently?

Yes, when based on a “bona fide occupational qualification.” This is explained in further detail in the sections under “What kind of discrimination does the law cover?”

Who enforces the law?

The Maine Human Rights Commission (MHRC) is responsible for resolving disputes and enforcing the provisions of the MHRA. For a further explanation of what the MHRC does, see the “Filing Procedures” section.

Does it matter when the discrimination occurred? What can I get if I win?

Yes. For purposes of filing a claim, determining when the discrimination occurred is

important. For more information about filing and remedies, please see the “How do I file a claim?” section.

Maine – Unequal Pay

It Happened to Me: A Real Story

Shellee worked as a bus driver for a number of years beginning in 1996. Among other duties, she performed basic maintenance work, such as washing, fueling, and repairing buses. In 2001, the company hired a male employee who took over a large portion of these duties, although Shellee continued to do them also. The new male employee was paid \$8 an hour, while Shellee was paid only \$7 an hour for the exact same work. When Shellee brought suit, her employer claimed that the difference was the result of a mistake by an office worker. Shellee was able to show that the office worker had no ability to set the rate of pay, and it was actually the employer that did so. She met her burden of proof.

Dykstra v. First Student, Inc., 324 F.Supp.2d 54, (D. Me 2004).

How do I prove that I am being paid less because I am a woman?

To make out an unequal pay claim you must show:

1. You are a member of a protected class;
2. You performed your job in keeping with your employer's expectations; and,
3. You were paid less than members outside your protected class who held the same position.⁴

If you can show direct evidence of discrimination, the above requirements are automatically met. Direct evidence is evidence showing a discriminatory motive, and not just evidence that *infers* a discriminatory motive.

How do I show that I am a member of the protected class?

This element is easily satisfied. In Maine, women are a protected class under the Maine Human Rights Act (MHRA).⁵

How do I show that I performed my job in keeping with my employer's expectations?

If there are indications of positive performance, such as promotions, or positive evaluations, then courts have generally held this is enough to establish that you performed in keeping with your employer's expectations.⁶

How do I show I was paid less than members outside of my protected class who held the same position?

You need to show that a male whose job is comparable to yours is paid more. You do not have to show that the job is exactly the same, however.⁷ In a case involving prison guards

working at two separate prisons, the court held that the job duties in the prison that employed mostly women were substantially similar to the prison that employed mostly men. The court upheld a finding of sex based wage discrimination.⁸ Similarly, a court found that a woman met this element when she proved she was paid a dollar an hour less than a man for the same exact work.⁹

I can meet the initial requirements. Now what?

Your employer now has an opportunity to offer a legitimate, non-discriminatory reason for paying you less than a man. For instance, if your employer can show that they have a merit or seniority system in place, then these are legitimate non-discriminatory reasons to account for the pay difference.

If your employer offers a legitimate, nondiscriminatory reason for the differences in pay, you have the opportunity to prove that the reason they offer was pretext. Pretext is a false reason given to cover the real, discriminatory reason for the adverse action.¹⁰ As an example of this, an employer claimed that the pay discrepancy was a clerical error. The court found sufficient evidence to support this reason, but the plaintiff was able to prove that the person the employer claimed made the clerical error actually had no ability to do so, and that the employer actually set the rate of pay.¹¹

Maine – Sexual Harassment

It Happened to Me: A Real Story

Eileen worked as a forklift operator in L.L. Bean's warehouse. She moved pallets of merchandise around the warehouse for packing and shifting with a 22,000-pound forklift. One of Eileen's fellow employees behaved in a peculiar manner towards her. He grabbed her foot and massaged it against her will at an L.L. Bean pool party. He followed her around at work even when they were scheduled to work at a different warehouse. He blocked her path physically so that she had to squeeze past and gave her gifts designed to show her that he was watching her. He danced in the warehouse near her, waited in the dark for her to come upon him, followed her home, and even broke into her house.

Eileen told her supervisors about her co-worker's behavior, but they failed to take any effective action against him. Eventually, after nearly two years of this behavior, Eileen was given permanent court protection against this co-worker, and L.L. Bean fired him. Eileen was able to prove that her co-worker's behavior and L.L. Bean's lack of action against him, despite her frequent complaints about him, was sexual harassment that amounted to a hostile work environment. Eileen was awarded \$215,000 in compensatory damages.

Crowley v. L.L. Bean, 303 F.3d 387, 393-93 (1st Cir. 2002).

I feel like I have been sexually harassed. How do I prove it?

Under Maine law (which closely follows federal law) there are two ways to prove sexual harassment, which are called "quid pro quo" and "hostile work environment." In essence, quid pro quo means you were forced to submit to conditions that are sexual in nature as a condition of employment (such as being asked to wear revealing clothing). Hostile work environment means that you were being harassed in a way that altered the conditions of employment.

How do I prove sexual harassment under a hostile work environment theory?

To prove sexual harassment on a hostile work environment claim, you must prove:

1. You are a member of a protected class;
2. You were subjected to unwelcome sexual harassment;
3. The harassment was based upon sex;
4. The harassment was sufficiently severe or pervasive so as to alter the conditions of plaintiff's employment and create an abusive work environment;
5. The sexually objectionable conduct was both objectively and subjectively offensive; and
6. There is some basis for holding the employer liable..¹²

What is Quid Pro Quo Sexual Harassment?

Quid pro quo is a Latin phrase that means: “one thing in return for another.” Quid pro quo sexual harassment is a sexual advance made by a supervisor towards a subordinate, which is accompanied by the threat that if she refuses, she will suffer a job detriment.

How do I prove Quid Pro Quo Sexual Harassment?

To successfully prove a quid pro quo claim of sexual harassment, you must show:

1. You were subject to unwelcome sexual advances by a supervisor; and
2. Your reaction to these advances affected tangible aspects, whether beneficial or detrimental, of your compensation, terms, conditions, or privileges of employment.¹³

How do I show that I am a member of the protected class?

This element is easily satisfied. In Maine, women are a protected class under the Maine Human Rights Act (MHRA).¹⁴

What is unwelcome sexual harassment?

Unwelcome sexual harassment consists of behavior like sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature.¹⁵

What is a hostile work environment?

A hostile work environment exists when the discriminatory conduct is sufficiently severe or pervasive “to alter the conditions of employment.”¹⁶ In other words, the harassment must unreasonably interfere with your work performance.¹⁷

How do I prove that the harassment was based on my sex?

You need to prove that if you were not a woman, you would not have been subjected to the offensive actions. In one case, the court decided that because the vulgar and offensive language complained of was used by both women and men, and would have been used whether or not the plaintiff was there, the language was not based on plaintiff’s sex.¹⁸

How do I prove that the unwelcome advance was a condition for receiving a tangible job benefit?

You can satisfy this element by showing that your refusal of sexual advances would result in you being fired, demoted, or not promoted.¹⁹ In one instance, a female employee was explicitly told by her supervisor to give in to a customer’s sexual demands, and the court found that this constituted quid pro quo sexual harassment.²⁰

What is a tangible job detriment?

A tangible job detriment is denial of a raise or a promotion, or something along these lines.²¹

How do I show that the discriminatory conduct was sufficiently severe or pervasive to create a hostile work environment?

Whether the discriminatory conduct is sufficiently severe or pervasive to create a hostile work environment will be determined by looking at all the circumstances.²² For instance, the court will consider the frequency of the alleged discriminatory conduct as well as its severity. It will also look at whether the conduct was merely verbally offensive or if it was physically threatening or humiliating.²³

In one case, the courts found a hostile work environment based primarily on verbally offensive conduct,²⁴ while in another case, the plaintiff was able to establish a hostile work environment when her co-worker grabbed her, gave her unwanted gifts, and even followed her home.²⁵

Is a single act of harassment ever sufficient to prove a hostile work environment?

Yes, although it is unusual for a single incident to create a sufficiently hostile work environment. A hostile work environment is usually created by a series of separate acts performed over time. However, the court looks at whether the alleged discriminatory conduct is severe *or* pervasive.²⁶ One incident, when it is severe enough, can be sufficient to create a hostile work environment for purposes of filing a claim for sexual harassment.²⁷

What does it mean that the sexually objectionable conduct was both objectively and subjectively offensive, and how do I prove it?

The "subjectively offensive" requirement means that you felt that the harassment you experienced was hostile or abusive. This is fairly easy to prove because it is largely based on your own personal feelings, and your own testimony will be evidence of this.

The "objectively offensive" requirement means that reasonable people would find the sexual harassment you suffered to be hostile or abusive. This means that if you are particularly sensitive, you do not necessarily have a case because you still must prove to the court that reasonable people would find it hostile or abusive. There is no bright line rule in determining what conduct was objectively offensive. Courts will look at all the surrounding circumstances in making this determination.²⁸

What must I show to establish a basis for my employer's liability?

You must establish that your employer (or someone in a supervisor position) knew, or should have known, that you were being harassed, and failed to take steps to correct it.²⁹ If you are being harassed by your only supervisor, and there is no sexual harassment policy in your workplace, this element will have been met.³⁰

On the other hand, your employer can raise as a defense that they tried to fix or prevent the problem, but that you unreasonably failed to take advantage of the corrective or preventive opportunities, thus relieving them of liability. This means that you must take advantage of any sexual harassment policies in place, and failure to do so may be fatal to your claim.

In an instance where a woman was being persistently harassed, she reported it to higher level supervisor who then fired the supervisor who was harassing her. The employer was able to raise this defense.³¹ If you take these steps and are still being harassed, or if the harassment culminated in a tangible employment action (such as being demoted or fired), your employer cannot raise this defense.³²

Are there any special considerations when filing a sexual harassment claim?

Under Title VII, courts recognize that sexual harassment filed as a hostile work environment claim usually consists of a series of separate acts. Provided that any single act pertaining to the claim occurs within the legally specified period of time, the entire period of hostile work environment may be considered by the court, even if earlier instances would normally be time barred.³³ For more information about time limitations, see the “Filing and Remedies” section.

Maine – Pregnancy Discrimination

It Happened to Me: A Real Story

Five months after she began working as a waitress, Marie learned that she was pregnant. She promptly informed her employer. Several months later, she told her employer that she was planning to continue work until the end of that month. The restaurant manager told her that she would be laid off at the end of the month.

Marie filed a claim with the Maine Human Rights Commission. Ultimately, she brought a lawsuit against her former employer alleging discrimination based on sex. The court found that the fact that Marie would eventually leave work due to her pregnancy is not a legitimate reason to discharge her, even when she had told her employer of her plans to leave. However, her employer presented evidence that she had been laid off, because she had provided inferior service to customers. The court ruled in favor of the restaurant.

Tiemann v. Santarelli Enterprises, Inc., 486 A.2d 126 (Maine 1984)

Are pregnant women members of a protected class?

Yes. Under the provisions of the Maine Human Rights Act (MHRA), pregnant women are a protected class.³⁴

I feel like I have been discriminated against because I am/was pregnant. How do I prove it?

Under Maine law (which closely follows federal law)³⁵ to make a claim for discrimination based on pregnancy, an employee must show:

1. You were pregnant or had indicated an intention to become pregnant at the time the adverse employment action was taken;
2. Your job performance was satisfactory;
3. Your employer dismissed you or took some other adverse employment action; and
4. Your employer treated you differently than it treated other non-pregnant employees.³⁶

If you can show direct evidence of discrimination the above requirements are automatically met. Direct evidence is evidence showing a discriminatory motive, and not just evidence that *infers* a discriminatory motive.

What is an adverse action?

An adverse action is an action that hurts your employment status, such as discharge, reduction of pay, demotion or divesting responsibilities, or failing to promote.³⁷ The basic

idea is that the adverse action must materially change the conditions of your employment. Just because your employer does something that displeases you, does not mean that you have an adverse action claim.³⁸ You must be able to show that your employer materially changed your working conditions so that you were disadvantaged.³⁹

The following are more examples of adverse employment actions: demotions, disadvantageous transfers or assignments, refusals to promote, unwarranted negative job evaluations, and toleration of harassment by other employees.⁴⁰ It is possible that even having your supervisory authority dramatically decreased could constitute an adverse employment action.⁴¹ You do *not* have an adverse employment action just because your employer imposes additional responsibilities on you. If other employees, who are not engaged in the statutorily protected conduct, have similar demands placed on them, then courts will most likely find that you have not been subjected an adverse employment action.⁴²

How do I show that the adverse action happened because of my pregnancy?

You need to show that you would not have been subjected to the actions complained of if you were not pregnant. This can be demonstrated in two ways. First, you can present direct evidence of discrimination. In other words, if your employer told you or otherwise explicitly expressed that adverse action was taken as a result of your pregnancy, you could satisfy this requirement. If you cannot present direct evidence, then the court will look at all the facts surrounding the adverse action. For example, in one case the court found that an employer's dismissal of an employee on the same day she revealed her pregnancy was enough to satisfy this element of her case.⁴³

However, mere coincidence is not enough. If the employer can prove that its employment decision was based on a legitimate, non-discriminatory reason, the claim will fail. For example, in another case, a woman whose position was eliminated while she was on maternity leave was unsuccessful in her discrimination claim, because the employer established that it would have eliminated the position whether the employee was pregnant or not.⁴⁴

What practices are prohibited under the Act?

Employers are prohibited from treating pregnant women who are able to work differently than other employees, unless there is a "bona fide occupational qualification."⁴⁵ In addition, employers are prohibited from treating medical conditions or disabilities arising from pregnancy differently than other disabilities.⁴⁶

In one case, a woman succeeded on a claim of discrimination when her employer excluded pregnancy and childbirth from its sick leave coverage, but allowed all other temporary disabilities.⁴⁷

What is a bona fide occupational qualification?

Employers may lawfully discriminate against pregnant women if pregnancy would prevent a woman from performing essential job functions safely and effectively. This exception is restricted to very limited circumstances and does not include positions which the employer deems to be too strenuous for the pregnant employee or potentially harmful to her fetus.⁴⁸

Can an employer refuse to hire me, because I may become pregnant?

No. Actual or anticipated pregnancy cannot be taken into account in reaching an employment decision.⁴⁹

Can my employer fire me if I miss work for doctor's appointments or other pregnancy related matters?

Employers can dismiss you for poor attendance at work, even when absences are related to pregnancy, but they must use the same attendance standard that they use for non-pregnant employees.⁵⁰ Your employer is not allowed to dismiss you for taking an authorized maternity leave.⁵¹

Is the employer required to provide additional benefits for pregnancy and conditions related to pregnancy?

No. Under Maine law, employers are not required to provide any additional medical benefits, sick leaves, or leaves of absence for pregnancy that they do not provide for their other employees.⁵² However, if your employer has more than 50 employees, you may have rights under the Family Medical Leave Act (FMLA).

For what amount of time can I take leave because of pregnancy?

Under the Family Medical Leave Act ("FMLA"), employers are required to give you up to 12 weeks of leave if you have worked for you employer for 12 months and for at least 1,250 hours.⁵³ However, the FMLA only applies to employers who employ more than 50 employees.⁵⁴ For more information about the FMLA, please see "Family Medical Leave Act" under the Federal Laws section.

What happens to my job while I am on pregnancy leave?

While on FMLA-approved leave, your job is still yours. Upon return from FMLA leave, you must be restored to your original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.⁵⁵

Maine—Discriminatory Hiring and Failure to Promote

It Happened To Me: A Real Story

In 1977 Lynn applied for a position at the Maine State Prison. Along with her application, she submitted several tests where she received satisfactory performance. Nevertheless, she was informed that she would not receive the position. A lower court found that she was not hired solely because she was a woman. The same court also decided, however, that being a male was a “Bona Fide Occupational Qualification” (BFOQ) for the job, because of inmate privacy issues.

The Supreme Judicial Court of Maine reversed the decision regarding the BFOQ and found that the Maine State Prison had not proved that the privacy interests of inmates would be destroyed if Lynn was employed. Lynn was successful on her claim.

Percy v. Allen, 449 A.2d 337, (Me.1982); *Percy v. Allen*, 472 A.2d 432, (Me.1984)

I wasn’t hired and I think it is because I am a woman, How do I prove it?

In order to prove your case you must show the following:

1. You are a member of the protected class;
2. You applied for an open position;
3. You were not selected; and
4. The employer filled the position by hiring another individual with similar qualifications.⁵⁶

How do I prove a failure to promote claim?

In order to prove a failure to promote claim, you must demonstrate:

1. You are a member of a protected class;
2. An adverse employment action occurred;
3. You were at least arguably qualified for the position you sought; and
4. The position was filled by others whose credentials were more or less comparable to yours.⁵⁷

If you can show direct evidence of discrimination the above requirements are considered to be automatically met. Direct evidence is evidence showing a discriminatory motive, and not just evidence that *infers* a discriminatory motive.

How do I show that I am a member of the protected class?

This element is easily satisfied. In Maine, women are a protected class under the Maine Human Rights Act (MHRA).⁵⁸

What must I show to prove that I applied for an open position?

You must be able to show documentation that you applied for an open position. However, courts have accepted an employer's acknowledgment that a potential candidate had applied for an open position, merely based upon the company's own policy of looking internally at candidates when filling open positions, despite this person not having applied for the open position.⁵⁹

How do I show I was at least arguably qualified for the position I sought?

You need to produce evidence that you met objective qualifications for the position (such as education and training), and that your performance in your job qualified you for a promotion.

In one case, a plaintiff was alleging that he (men can also sue as they are part of the protected class) was qualified despite the fact that his performance reviews were mixed, and comments were made about his inflexibility to work with co-workers. The court held that poor reviews were enough evidence to indicate that he was not qualified.⁶⁰

How do I show that the position was filled by others whose credentials were more or less comparable to mine?

This element means that you must show that your employer's failure to promote you is based on your sex. In the case discussed above, more men were being considered than women, and the court concluded that this rebutted any inference that gender was a factor working against the plaintiff⁶¹ In another case, the eventual promotion of the plaintiff meant that this element was not met, because the position he sought was not filled by anyone other than himself.⁶²

I can meet the elements of failure to promote or failure to hire, then what?

After you successfully show steps 1- 4 in either of the two tests set out above, your employer must then show a legitimate, non-discriminatory reason for taking their adverse action against you.

For instance, your employer might raise a "bona fide occupational qualification defense" for the position you are seeking as the reason for not hiring you. Please see "What is a bona fide occupational qualification defense?" for more information on this element.

If your employer is able to offer such a reason, you must show that the reason given by the employer was mere pretext. Pretext is a false reason given to cover the real, discriminatory reason for the adverse action.⁶³ The employee can demonstrate pretext by showing that the reason given is not supported by the evidence, the reason given did not actually motivate the discharge, or that the reason given was insufficient to warrant the discharge. For example, in one instance a woman was able to show that discriminatory

comments her employer made were proof enough that the given reasons for her failure to promote or hire were a pretext.⁶⁴

What is a bona fide occupational qualification?

An employee's gender is a bona fide occupational qualification (BFOQ) when gender is reasonably necessary to the normal operation of a particular business.⁶⁵

Examples of when courts have allowed a BFOQ include when privacy interests are involved. For example, courts have generally upheld that corrections departments can prohibit women from working in specific positions in male prisons.⁶⁶ However, in at least one case, the court held that being a male was not a BFOQ which would bar a female from obtaining employment in a male prison.⁶⁷

This illustrates that the BFOQ can vary with the specific circumstances of your case. The courts have consistently held that the BFOQ should be limited to very specific circumstances. As a result, employers may not use the defense of bona fide occupational qualification because the work environment would expose a pregnant woman's fetus to harmful chemicals.⁶⁸

Maine—Discriminatory Firing

It Happened to Me: A Real Story

In 1996, Karen responded to an advertisement for a customer service representative at a U-Haul office. Some of the duties for the position included answering phones, renting trucks, and installing trailer hitches. The manager at the U-Haul office interviewed Karen for the position and she was subsequently hired.

A few days after starting her position, Karen answered a phone call from the U-Haul Company of Maine president. The president was surprised to be speaking to a woman. Karen later found out that he felt that women were not supposed to be installing trailer hitches, and a male replacement was hired. Karen's manager called her a few days later and told her that it was beyond his control, but she was being fired. He explained that "the only problem you have is you sit when you pee." Karen was awarded the maximum amount allowed by law.

Romano v U-Haul Intern., 233 F.3d 655, 660-661 (1st Cir. 2000).

What is discriminatory firing?

Discriminatory firing, or wrongful termination, occurs when an employer discharges an employee without just cause because of his or her race, color, religion, sex, sexual orientation, national origin, disability, age, or ancestry.⁶⁹

How do I prove a discriminatory firing claim?

The following are the elements you must show to prove discriminatory firing:

1. You belong to a protected class;
2. You performed your job satisfactorily;
3. Your employer took an adverse employment decision against you; and
4. Your employer continued to have your duties performed by a comparably qualified person.⁷⁰

You must show adequate evidence to meet each step above to prove your claim. The evidence required in each case will vary depending on the specific facts and circumstances of your claim.

If you can show direct evidence of discrimination, the above requirements are automatically met. Direct evidence is evidence showing a discriminatory motive, and not just evidence that *infers* a discriminatory motive. For example, a female employee who was told that she was fired because her only problem was "you sit when you pee," was able to show direct evidence of discrimination.⁷¹

How do I show that I am a member of the protected class?

This element is easily satisfied. In Maine, women are a protected class under the Maine Human Rights Act (MHRA).⁷²

How do I show that I performed my job satisfactorily?

Courts will look at performance reviews and other objective standards in determining whether or not an employee performed satisfactorily. A court has determined that test scores placing a woman at the bottom of a list of applicants showed that she was not qualified for a position to be a police officer. While this case was based upon discriminatory hiring, it illustrates a standard that courts will use.⁷³

Your employer will be given an opportunity to rebut this by offering a legitimate non-discriminatory reason for your termination that may or may not be based on your job performance.

What is an adverse action?

In the case of discriminatory firing, this element can be met by showing that the you were actually fired or “constructively discharged.” Constructive discharge occurs when employer’s actions make working conditions so intolerable that a reasonable person under the circumstances would have felt compelled to resign.

Courts have decided that constructive discharge has taken place when unwanted and unwelcome verbal and physical conduct of a sexual nature caused a woman to resign from her waitress job of three years.⁷⁴

How do I show my former position is filled by someone as qualified as me?

The final requirement is that the you must show that you were replaced by a comparable person following your discharge, whether it be constructive or actual.⁷⁵ This element can be established fairly easily based on objective standards.

I can meet those requirements. Now what?

Once you have demonstrated that each of the four requirements for wrongful discharge claims is more likely than not to be true, the law requires that the employer provide a “legitimate, nondiscriminatory reason” for the adverse employment action.⁷⁶

In cases of discriminatory firing, the adverse action is discharge. Typically, it is relatively easy for the employer to give a non-discriminatory reason for the discharge. Poor work performance and slow business have been upheld as legitimate non-discriminatory reasons even in the face of some direct evidence of discrimination.⁷⁷ See “requirements to prove a claim” for an explanation of what direct evidence is.

If the employer is able to offer such a reason, the employee must show that the reason given by the employer was mere pretext. Pretext is a false reason given to cover the real, discriminatory reason for the adverse action.⁷⁸ The employee can show pretext by showing that the reason given is not supported by the evidence, the reason given did not actually motivate the discharge, or that the reason given was insufficient to warrant the discharge.⁷⁹ For example, in one instance a woman was able to show that discriminatory comments her employer made were proof enough that the given reasons for her ultimate firing were a pretext.⁸⁰

Can I ever be fired because I am a woman?

The Maine Human Rights Act allows employers to discriminate against women when based on a “bona fide occupational qualification” (see below for examples and further explanations of a BFOQ). While this will not be an issue in many firing situations, it has arisen in regards to pregnancy.

What is a bona fide occupational qualification?

An employee’s gender is a bona fide occupational qualification (BFOQ) when gender is reasonably necessary to the normal operation of a particular business.⁸¹

Examples of when courts have allowed a BFOQ include when privacy interests are involved. For example, courts have generally upheld that corrections departments can prohibit women from working in specific positions in male prisons.⁸²

However, the courts have consistently held that the bona fide occupational qualification should be limited to very specific circumstances. As a result employers may not use the defense of bona fide occupational qualification because the work environment would expose a pregnant woman’s fetus to harmful chemicals.⁸³

Maine – Retaliation

It Happened To Me: A Real Story

Barbara worked as Tax Examiner in the Enforcement Office at the State of Maine’s Bureau of Taxation (“Bureau”) in 1992. She filed two sex discrimination complaints with the Maine Human Rights Commission and the Equal Employment Opportunity Commission. Two days after her supervisor was notified in a letter from the Human Rights Commission that Barbara had filed these complaints, they reassigned her to an entry-level tax examiner job, which was considered less prestigious, and for which Barbara had no prior experience.

Barbara’s employer claimed that the close proximity in time between their receipt of the Human Rights Commission letter and Barbara’s position change was just a coincidence. The court ruled that closeness in time between the receipt of the letter and changing Barbara’s position was not coincidence, and to suggest so “stretched the bounds of credulity.” Barbara was able to meet her burden of proof.

What is retaliation and how do I prove it?

Retaliation is wrongful treatment by your employer for participating in the enforcement of the Maine Human Rights Act (MHRA), such as reporting a violation or assisting in someone else’s claim. The MHRA allows you to bring retaliation claims against your employer.⁸⁴ If you cannot present direct evidence of retaliation, such as comments from your employer indicating a retaliatory intent, you must meet the following requirements in order to prove retaliation under the act:

- (1) You engaged in statutorily protected conduct;
- (2) You suffered adverse employment action
- (3) That there is a causal connection between the protected conduct and the adverse employment action.⁸⁵

What is statutorily protected conduct?

Statutorily protected conduct is to oppose any violation of the MHRA by making a charge, testifying, or assisting in any investigation proceeding or hearing under the Act.⁸⁶ The MHRA makes it unlawful for an employer to discriminate based upon sex regarding any matter directly or indirectly related to employment.⁸⁷ Retaliation could take many forms. It could be as obvious as being fired for bringing a sexual harassment claim, or it could be as subtle as being reassigned to a less desirable position for educating a female co-worker about her rights under the MHRA.

What is an adverse action?

An adverse action is an action that hurts your employment, such as discharge, reduction of pay, demotion or divesting responsibilities, or failing to promote.⁸⁸ The basic idea is that the adverse action must materially change the conditions of your employment. Just because your employer does something that displeases you does not mean that you have met the adverse action element.⁸⁹ You must be able to show that your employer materially changed your working conditions so that you were disadvantaged.⁹⁰

The following are more examples of adverse employment actions: demotions, disadvantageous transfers or assignments, refusals to promote, unwarranted negative job evaluations, and toleration of harassment by other employees.⁹¹ It is possible that even having your supervisory authority dramatically decreased could constitute an adverse employment action.⁹²

You do not have an adverse employment action just because your employer imposes additional responsibilities on you. If other employees, who are not engaged in the statutorily protected conduct, have similar demands placed on them, then courts will most likely find that you have not been subjected an adverse employment action.⁹³

What is a causal connection and how do I prove it?

To prove a causal connection you must present sufficient evidence to raise an inference that your protected activity was the likely reason for the adverse action. The time between your protected conduct and the adverse action can be strong evidence of a causal connection.

For example, a woman was on two occasions reassigned to less prestigious positions soon after she had filed claims of sex discrimination with the MHRC. The court decided that the close proximity of her reassignments and her claims, coupled with comments that she was a "troublemaker" by her supervisor, was enough evidence to show a causal connection.⁹⁴

On the other hand, the courts have decided that if you file a claim and your employer is unaware of this, then it is not possible to raise an inference that the charge was the cause of your firing or your negative treatment.⁹⁵ Proving a causal connection is the most important and difficult element of making out a retaliation claim.

I can prove the initial requirements of retaliation, then what?

After you successfully show steps 1-3 above, your employer must then show a legitimate non-retaliatory reason for taking their adverse action against you.⁹⁶ If your employer can show this, then you must prove that retaliation was the true cause. As stated above, proving a causal connection between your protected conducted and the adverse action is the most difficult element of making out a retaliation claim.⁹⁷

Maine – How Do I File a Claim?

Do I have to go through the Maine Human Rights Commission (MHRC) in order to sue my employer for workplace discrimination?

Yes, you must file with the MHRC in order to pursue a private lawsuit against your employer if you want to recover monetary damages and attorney fees.⁹⁸ However, if the MHRC has not filed a private lawsuit on your behalf or arbitrated an agreement with your employer within 180 days, you may request a right-to-sue letter from the MHRC that will allow you to pursue your claim in court and be awarded with damages and attorney fees.

When must a claim be filed?

A claim must be filed as soon as possible after the alleged act of discrimination occurs, but no later than 6 months after the discrimination occurs.⁹⁹

How must a claim be filed?

A claimant must submit a form in person or by mail. FAX and internet submissions are not accepted.¹⁰⁰

Where must the claim be filed?

A claim must be filed at the office of the Maine Human Rights Commission, 51 State House Station, Augusta, ME 04333-0051.¹⁰¹

How do I start the charge process?

The charge process can be started by calling, writing, or visiting the Commission office where an intake questionnaire can be completed and submitted. An intake officer will then assist in the preparation of the charge.¹⁰²

What information should the charge contain?

The charge should contain a brief statement of the facts and circumstances surrounding the alleged act of discrimination. The charge must be submitted under oath in front of a notary public or other person authorized to administer oaths.¹⁰³

Must I file a state claim with the Human Rights Commission and a federal claim with the EEOC?

No. The Human Rights Commission and EEOC have a work-sharing agreement. You can file one complaint with either agency and request a cross-claim with the other agency. If your employer has less than 15 employees, you should file your complaint with the Human Rights Commission, because the EEOC only applies to employers with 15 or more employees.¹⁰⁴

The nearest EEOC office is located in Boston at the John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203. Their phone number is 1-800-669-4000.¹⁰⁵

What happens after I file a charge?

After you file a charge and before an investigation is undertaken, the Commission will offer you and your employer the opportunity to resolve the alleged unlawful discrimination through settlement.

What is Settlement?

Settlement is when you and your employer agree on ways to resolve the issues raised in your charge. Settlement allows parties to tailor an agreement that addresses their specific issues and is a relatively quick and inexpensive way to secure a desired outcome. The Commission strongly encourages both you and your employer to settle a case before a formal investigation into your charge begins. If you are able to reach a settlement, the Commission will dismiss your charge and your employer will be held to the terms of the settlement agreement.¹⁰⁶

What if my charge is not settled?

If your charge is not settled, the Commission will conduct a preliminary investigation to determine whether there are reasonable grounds to conclude that an act of unlawful discrimination has occurred.¹⁰⁷

What happens during the investigation?

The Commission can investigate the employment premises, review records and documents, and interview individuals who are necessary for determining whether there are reasonable grounds to conclude that an act of unlawful discrimination has occurred. The investigation may also include a fact-finding conference during which both you and your employer, along with any necessary witnesses, will meet with the investigator to lay out the facts surrounding the alleged act of unlawful discrimination.¹⁰⁸

The investigator is an impartial evaluator and will make a determination based on the facts and evidence he or she discovers during the course of the investigation.¹⁰⁹

Do I need an attorney?

You may choose whether you wish to be represented by an attorney. If you decide to retain counsel, you should notify the commission so that they will forward all relevant documents directly to your attorney.¹¹⁰

What happens at the conclusion of the investigation?

When the Commission has concluded its investigation it will take one of two steps. If it determines that there are no reasonable grounds to conclude that an unlawful act of discrimination has occurred, it will issue a letter dismissing the complaint. On the other hand, if the investigator believes there are reasonable grounds, the complaint will be listed on a published commission meeting agenda.¹¹¹

What actions will the Commission take when there are reasonable grounds to conclude that an act of unlawful discrimination has occurred?

The Commission will review the investigator's report and hear oral arguments during a public meeting of the Commission.

There are two methods that the Commission uses to address charges where reasonable grounds are established. First, when there are no extenuating circumstances, such as threatened loss of employment, severe financial loss, or threat of personal injury, the Commission will attempt to resolve the charge through informal means. These informal means include conferences, persuasion, and conciliation agreements.¹¹²

What if informal means fail?

If the Commission is unable to resolve the charge through conciliation, or if there are serious extenuating circumstances, the Committee will file a lawsuit in Superior Court.¹¹³

Who pays for the lawsuit?

The Commission brings a civil action in its own name and provides counsel.¹¹⁴

What is a right to sue letter?

If you want to file a civil action directly in Superior Court, and if your charge has been filed with the Commission for 180 days or more, you can request a right to sue letter. The Commission will immediately stop investigation of your claim and dismiss your charge.¹¹⁵

Maine – What Am I Entitled to If I Win?

If I am successful, what kind of relief will the court grant me?

The court can grant relief that includes monetary damages, temporary restraining orders, and injunctions to prevent or compel behavior, such as reinstatement in employment or ending discriminatory practices.¹¹⁶

What types of monetary damages are available?

The court may award both compensatory and punitive damages. Compensatory damages are awarded for things like financial loss, emotional pain and suffering, and inconvenience. Punitive damages are intended to punish the employer and are awarded only when its behavior demonstrates malice or reckless indifference.¹¹⁷

Is there a limit on monetary damages I can recover?

Yes. If your employer has 14 or fewer employees, damages are limited to \$10,000 for the first violation, \$25,000 for the second, and \$50,000 for the third or later violations.¹¹⁸

If your employer has 15 or more employees, the maximum sum of compensatory and punitive damages are determined by the number of employees. If your employer has between 15 and 100 employees, your total damages may not exceed \$50,000. Where there are 101-200 employees, total damages may not exceed \$100,000. Where there are 201-500 employees, total damages may not exceed \$200,000, and where there are 501 or more employees, total damages may not exceed \$300,000.¹¹⁹

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- ¹ All endnotes in the Maine section follow the standard Blue Book citation form.
- ² Maine Human Rights Act, Me. Rev. Stat. Ann. tit. 5, §§ 4553 (4) (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).
- ³ Maine Human Rights Act, Me. Rev. Stat. Ann. tit. 5, §§ 4553 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).
- ⁴ *Lakshman v. University of Maine System*, 328 F.Supp.2d 92 at 104 (D.Me., 2004)
- ⁵ Maine Human Rights Act, Me. Rev. Stat. Ann. tit. 5, § 4572 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).
- ⁶ *Lakshman v. University of Maine System*, 328 F.Supp.2d 92 at 99(D.Me., 2004).
- ⁷ *Marcoux v. State of Me.*, 797 F.2d 1100 at 1107 (1st Cir. 1986).
- ⁸ *Marcoux v. State of Me.*, 797 F.2d 1100 at 1107 (1st Cir. 1986).
- ⁹ *Dykstra v. First Student, Inc.*, 324 F.Supp.2d 54 at 65-66 (D. Me., 2004).
- ¹⁰ *Texas Dept. of Community Affairs v. Burdine*. 450 U.S. 248 (1981).
- ¹¹ *Dykstra v. First Student, Inc.*, 324 F.Supp.2d 54 at 65-66 (D. Me., 2000).
- ¹² *Lerman v. Mt. Sinai Cemetery Ass'n, Inc.*, 2001 WL 1711516 at *5 (Me.Super. Feb. 28, 2001).
- ¹³ *Lipsett v. University of Puerto Rico*, 864 F.2d 881 at 898 (1st Cir. 1988)
- ¹⁴ Maine Human Rights Act, Me. Rev. Stat. Ann. tit. 5, § 4572 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).
- ¹⁵ *Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57 at 65 (1986) citing EEOC guidelines 29 CFR §1604.11(a) (1985).
- ¹⁶ *Meritor Sav. Bank*, 477 U.S. 57 at 67 citing *Henson v. Dundee*, 682 F.2d 897 at 904 (11th Cir. 1982).
- ¹⁷ *Harris v. Forklift Sys. Inc.* 510 U.S. 17 at 21-22 (1993).
- ¹⁸ *Bowen v. Department of Human Services*, 606 A.2d 1051 at 1054 (Me. 1992).
- ¹⁹ *Rodriguez-Hernandez v. Miranda-Velez*, 132 F.3d 848 at 854 (1st Cir. 1998).
- ²⁰ *Rodriguez-Hernandez v. Miranda-Velez*, 132 F.3d 848 at 854 (1st Cir. 1998).
- ²¹ *Burlington Industries, Inc. v. Ellerth* 524 U.S. 742 at 761 (1998).
- ²² *Burlington Industries, Inc. v. Ellerth* 524 U.S. 742 at 761 (1998).
- ²³ *Burlington Industries, Inc. v. Ellerth* 524 U.S. 742 at 761 (1998).
- ²⁴ *Lerman v. Mt. Sinai Cemetery Ass'n, Inc.*, 2001 WL 1711516 at *6 (Me.Super. Feb. 28, 2001).
- ²⁵ *Crowley v. L.L. Bean*, 303 F.3d 387 at 397-398 (1st Cir. 2002).
- ²⁶ *Crowley v. L.L. Bean*, 303 F.3d 387 at 396 (1st Cir. 2002).
- ²⁷ *Nadeau v. Rainbow Rugs, Inc.*, 675 A.2d 973 at 976 (Me. 1996).
- ²⁸ *Harris v. Forklift Sys. Inc.* 510 U.S. 17 at 23 (1993); *Lerman v. Mt. Sinai Cemetery Ass'n, Inc.*, 2001 WL 1711516 at *6 (Me.Super. Feb. 28, 2001).
- ²⁹ *Nadeau v. Rainbow Rugs, Inc.*, 675 A.2d 973 at 977 (Me. 1996).
- ³⁰ *Nadeau v. Rainbow Rugs, Inc.*, 675 A.2d 973 at 976 (Me. 1996).
- ³¹ *Reed v. MBNA Marketing Systems, Inc.*, 333 F.3d 27 at 32 (1st Cir. 2003).
- ³² *Faragher v. City of Boca Raton*, 524 U.S. 775 at 808 (1998), *Lerman v. Mt. Sinai Cemetery Ass'n, Inc.*, 2001 WL 1711516 at *6 (Me.Super. Feb. 28, 2001).
- ³³ *Crowley v. L.L. Bean*, 303 F.3d 387 at 395 (1st Cir. 2002) citing *National Railroad Passenger Corp. v. Morgan* 536 U.S. 101 (2002).
- ³⁴ Maine Human Rights Act, Me. Rev. Stat. Ann., tit. 5 §4572 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).
- ³⁵ *Maine Human Rights Commission v. Maine Dept. of Defense*, 627 A.2d 1005 at 1007 (Me. 1993).
- ³⁶ *Green v. New Balance Athletic Shoe, Inc.*, 182 F.Supp.2d 128 at 135 (Me. 2002).
- ³⁷ *Blackie v. Maine*, 75 F.3d 716 at 725 (1st Cir., 1996).
- ³⁸ *Blackie v. Maine*, 75 F.3d 716 at 725 (1st Cir., 1996).
- ³⁹ *MacCormack v. Boston Edison Co.*, 672 N.E.2d 1 at 7 (Mass. 1996)
- ⁴⁰ *Hernández-Torres v. Intercontinental Trading, Inc.*, 158 F.3d 43 at 47 (1st Cir., 1998)
- ⁴¹ *Marrero v. Goya of P.R.*, 304 F.3d 7 at 23-24 (1st Cir.2002).
- ⁴² *Hernández-Torres v. Intercontinental Trading, Inc.*, 158 F.3d 43 at 47 (1st Cir., 1998).
- ⁴³ *McDonnel v. Certified Engineering & Testing Co., Inc.* 899 F.Supp 739 at 749 (D.MA 1995).
- ⁴⁴ *Smith v. F.W. Morse & Co., Inc.* 76 F.3d 413 at 422 (1st Cir. 1996).

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- ⁴⁵ Maine Human Rights Act, Me. Rev. Stat. Ann., tit. 5 §4572 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).
- ⁴⁶ Maine Human Rights Act, Me. Rev. Stat. Ann., tit. 5 §4572 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).
- ⁴⁷ *Murray v. Waterville Bd. Of Educ.*, 390 A.2d 516 at 591 (Me. 1978).
- ⁴⁸ *International Union. v. Johnson Controls, Inc.* 499 U.S. 187 at 197 (1991).
- ⁴⁹ *Santiago-Ramos v. Centennial P.R. Wireless Corp.*, 217 F.3d 46 at 53 (1st Cir. 2000).
- ⁵⁰ *Troy v. Bay State Computer Group, Inc.* 141 F.3d. 378 at 381 (1st Cir. 1998).
- ⁵¹ *Smith v. F.W. Morse & Co., Inc.* 76 F.3d 413 at 424 (1st. Cir. 1996).
- ⁵² Maine Human Rights Act, Me. Rev. Stat. Ann., tit. 5 §4572 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).
- ⁵³ The Family Medical Leave Act of 1993, 42 U.S.C.A. §2601-101(2)(A)(i)(ii)
- ⁵⁴ The Family Medical Leave Act of 1993, 42 U.S.C.A. §2601-101(4)(A)(i)
- ⁵⁵ The Family Medical Leave Act of 1993, 42 U.S.C.A. §2601-104(a)
- ⁵⁶ *Gu v. Boston Police Dept.*, 312 F.3d 6 at 11 (1st Cir., 2002).
- ⁵⁷ *Lakshman v. University of Maine System*, 328 F.Supp.2d 92 at 107-108 (D.Me. 2004).
- ⁵⁸ Maine Human Rights Act, Me. Rev. Stat. Ann., tit. 5 §4572 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).
- ⁵⁹ *Rodriguez v. Smithkline Beecham*, 224 F.3d 1 at 4 (1st Cir., 2000).
- ⁶⁰ *Petitti v. New England Tel. & Tel. Co.*, 909 F.2d 28 at 33 (1st Cir. 1990).
- ⁶¹ *Petitti v. New England Tel. & Tel. Co.*, 909 F.2d 28 at 33 (1st Cir. 1990).
- ⁶² *Lakshman v. University of Maine System*, 328 F.Supp.2d 92 at 107-108 (D.Me. 2004).
- ⁶³ *Texas Dept. of Community Affairs v. Burdine*. 450 U.S. 248 at 248 (1981)..
- ⁶⁴ *Santiago-Ramos v. Centennial P.R. Wireless Corp.* .217 F.3d 46 at 55 (1st Cir., 2000). *Me. Human Rights Comm'n v. Auburn*, 408 A.2d 1253 at 1261-63 (Me.1979) (where the Supreme Court of Maine explicitly adopted the *McDonnell Douglas* framework as applied to employment discrimination claims brought under the MHRA).
- ⁶⁵ *Me. Human Rights Comm'n v. Auburn*, 408 A.2d 1253 at 1266 (Me.1979)
- ⁶⁶ *Dothard v. Rawlinson*, 433 U.S. 321 at 335-36 (1977).
- ⁶⁷ *Percy v. Allen*, 471 A.2d 432 at 433 (D. Me. 1994).
- ⁶⁸ *International Union, United Auto, etc. v. Johnson Controls, Inc.* 111 S.Ct. 1196 at 1204 (1991).
- ⁶⁹ Maine Human Rights Act, Me. Rev. Stat. Ann. tit. 5, § 4572 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).
- ⁷⁰ *Santiago-Ramos v. Centennial P.R. Wireless Corp.*, 217 F.3d 46 at 54 (1st, Cir.2000); *Harlow v. Potter*, 353 F.Supp.2d 109 at 114 (D.Me. 2005).
- ⁷¹ *Romano v. U-Haul Intern*, 233 F.3d 655 at 661 (1st Cir. 2000)
- ⁷² Maine Human Rights Act, Me. Rev. Stat. Ann. tit. 5, § 4572 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).
- ⁷³ *Maine Human Rights Commission v. City of Auburn*, 408 A.2d 1253 at 1271 (ME., 1979).
- ⁷⁴ *Higgins v. Jihsheng Corp.*, No. CV-94-231, Lexis 124 at *1 (Super. Me. April 26, 1996).
- ⁷⁵ *McDonnell Douglas v. Green*, 411 U.S. 792 (1973).
- ⁷⁶ *Dunnom v. Bennett*, 290 F.Supp 2d 860 at 867 (S.D. Ohio 2003).
- ⁷⁷ *Tiemann v. Santarelli Enterprises, Inc.*, 486 A.2d 126 at 133 (ME., 1984).
- ⁷⁸ *Texas Dept. of Community Affairs v. Burdine*, 450 U.S. 248 at 248 (1981).
- ⁷⁹ *International Union v. Johnson Controls, Inc.* 499 US 187 at 197 (1991).
- ⁸⁰ *Santiago-Ramos v. Centennial P.R. Wireless Corp.*, 217 F.3d 46 at 55 (1st Cir., 2000).
- ⁸¹ *InternationalUnion v. Johnson Controls, Inc.*, 499 U.S. 187 at 188 (1991)
- ⁸² *Dothard v. Rawlinson*, 433 U.S. 321 at 335-36 (1977).
- ⁸³ *International Union. v. Johnson Controls, Inc.* 499 U.S. 187 at 197 (1991).
- ⁸⁴ Maine Human Rights Act, Me. Rev. Stat. Ann. tit. 5, §4572 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature)
- ⁸⁵ *Bishop v. Bell Atlantic Corp.*, 299 F.3d 53 at 58 (1st Cir. 2002).
- ⁸⁶ Maine Human Rights Act, Me. Rev. Stat. Ann. tit. 5, §4572 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).

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- ⁸⁷ Maine Human Rights Act, Me. Rev. Stat. Ann. tit. 5, §4572 (West, Westlaw through 2006 Second Regular Session of the 122nd Legislature).
- ⁸⁸ *Blackie v. Maine*, 75 F.3d 716 at 725 (1st Cir. 1996).
- ⁸⁹ *Blackie v. Maine*, 75 F.3d 716 at 725 (1st Cir. 1996).
- ⁹⁰ *MacCormack v. Boston Edison Co.*, 672 N.E.2d 1 at 7 (Mass. 1996).
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- ⁹² *Marrero v. Goya of P.R.*, 304 F.3d 7 at 23-24 (1st Cir.2002)
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- ⁹⁵ *Stinson v. SimplexGrinnell LP*, No. 05-1410, 2005 WL 2708310 at 11 (1st Cir. Me. Oct. 21, 2005); *Bowen v. Dep't of Human Serv.*, 606 A.2d 1051 at 1055 (Me.1992); *King v. Town of Hanover*, 116 F.3d 965 at 968 (1st Cir.1997); *Oakstone v. Postmaster Gen.*, 332 F.Supp.2d 261 at 268 (D. Me. 2004)..
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- ⁹⁸ *Gordan v. Cummings*, 756 A.2d 942 at 944 (Me. 2000).
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- ¹⁰⁰ Maine Human Rights Commission, File a Charge, www.maine.gov/mhrc/file_a_charge/index.html (last visited Mar. 8, 2007).
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- ¹⁰⁶ Maine Human Rights Act, Me. Rev. Stat Ann. tit. 5 §4612 (West, Westlaw through 2006 Second Regular Session of the 122nd legislature).
- ¹⁰⁷ Maine Human Rights Act, Me. Rev. Stat Ann. tit. 5 §4612 (West, Westlaw through 2006 Second Regular Session of the 122nd legislature).
- ¹⁰⁸ Maine Human Rights Act, Me. Rev. Stat Ann. tit. 5 §4612 (West, Westlaw through 2006 Second Regular Session of the 122nd legislature).
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- ¹¹¹ Maine Human Rights Act, Me. Rev. Stat Ann. tit. 5 §4612 (West, Westlaw through 2006 Second Regular Session of the 122nd legislature).
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¹¹⁹ Maine Human Rights Act, Me. Rev. Stat Ann. tit. 5 §4613 (West, Westlaw through 2006 Second Regular Session of the 122nd legislature).