

MASSACHUSETTS DISCRIMINATION LAW REPORTER

*Massachusetts Commission Against Discrimination
Administrative Law Decisions*

VOLUME 45 2023

MCAD Hearing Commissioners / Year Appointed

Sunila Thomas George, Chairwoman	2017
Monserrate Quiñones, Commissioner	2017
Nelly Jean-Francois, Commissioner	2019

MCAD Hearing Officers / Year Appointed

Jason Barshak, Senior Hearing Officer	2021
Simone R. Liebman, Hearing Officer	2022

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For 1996-2020 cumulative Massachusetts Discrimination Law Reporter indices and searchable flash drive of decisions and commentary published in MDLR, please consult the 25-year supplemental index.

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The outcome of each decision appears immediately after the citation within [].
Full Commission Reviews do not appear in this index.

R = Decision in favor of Respondent
C = Decision in favor of Complainant

Jason Barshak

➤ *Employment—Race and Color Discrimination*

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Cumulative Decisions Reported—January-December 2023

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The outcome of each decision appears immediately after the citation within [].
Full Commission Reviews do not appear in this index.

R = Decision in favor of Respondent
C = Decision in favor of Complainant

Employment—Handicap Discrimination

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➤ *Sunila Thomas-George*

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Employment—Race and Color Discrimination

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Employment—Sex Discrimination or Sexual Harassment

➤ *Sunila Thomas-George*

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Housing—Sex Discrimination or Sexual Harassment

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Cumulative Decisions Affirmed by the Full Commission–January-December 2023

NOTE: The following decisions were affirmed without substantial comment and do not appear in this Reporter.

None

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NOTE: *The following decisions were appealed to the Full Commission, dismissed on procedural grounds, and do not appear in this Reporter. The date is the date of dismissal.*

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NOTE: Material appearing within square brackets [] as part of a citation indicates the Hearing Commissioner / Officer authoring the decision and the outcome. For example, *Osorio v. Standhard Physical Therapy (Decision of the Full Commission)*, [Full Commission-A] 45 MDLR 1 (2023), indicates a decision affirmed by the Full Commission.

[R] = Respondent
 [C] = Complainant
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Attorney's Fees

Commission Counsel

The Full Commission affirmed the 2018 decision of Hearing Officer Betty E. Waxman awarding \$25,000 in emotional distress damages to a gay male patron of a South End restaurant who was refused access to the bathroom and then subjected to gay slurs and manhandling by the restaurant doorman. The decision granted the award of attorney's fees in the amount of \$14,761 for the services of the Commission Counsel who represented the Complainant in this matter. *May v. Parish Cafe, Inc. and Factotum Tap Room, Inc. (Decision of the Full Commission)*, [Full Commission-A] 45 MDLR 35 (2023).

De Minimis Damages

The Full Commission rejected an employer's claim that it was not responsible for attorney's fees related to disability discrimination because no emotional distress damages were awarded as these were found to be *de minimis*. *Roberge v. Sullivan, Keating & Moran Insurance Agency (Decision of the Full Commission)*, [Full Commission-A] 45 MDLR 43 (2023).

Reasonableness

The Full Commission scaled back an attorney's fee award from \$19,389 to \$15,319 to eliminate reimbursement for time and expense related to a voluntary polygraph by the Complainant. Such tests are viewed by the Commission as unnecessary and contrary to public interest. *Osorio v. Standhard Physical Therapy (Decision of the Full Commission)*, [Full Commission-A] 45 MDLR 1 (2023).

Unsuccessful Claims

The Full Commission reduced the attorney's fee award for the Commission Counsel who represented a Petitioner in a handicap discrimination complaint by 70% from \$25,714 to \$7,714 to account for the Petitioner's unsuccessful claim of unlawful termination, although he prevailed on his failure to provide accommodation claim. *Roberge v. Sullivan, Keating & Moran Insurance Agency (Decision of the Full Commission)*, [Full Commission-A] 45 MDLR 43 (2023).

The Full Commission declined to award the entire amount of requested attorney's fees of \$25,714 and reduced them to \$7,714 to account for the Petitioner's unsuccessful claim of unlawful termination. The Complainant had prevailed on his reasonable accommodation claim. In so doing, the Commission noted that the failure to accommodate claim was based upon a discrete set of facts from the unlawful termination claim and so the two charges were not inextricably intertwined so as to merit full compensation. *Roberge v. Sullivan, Keating & Moran Insurance Agency (Decision of the Full Commission)*, [Full Commission-A] 45 MDLR 43 (2023).

Damages and Remedies

Back Pay/Lost Wages

– Computation

Hearing Officer Simone R. Liebman awarded just three weeks back pay to a New Bedford nurse found to have been wrongfully discharged in a handicap discrimination case where the Complainant quickly found a new, and higher paying job. *Jenson v. Rockdale Care & Rehabilitation Center (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 54 (2023).

A DCF social worker denied reasonable accommodation for her Cushing's Disease and then constructively discharged was entitled to \$101,567 in lost wages for periods of unemployment after her discharge. The Complainant was not required to offset the award with the unemployment compensation that she had received but neither was she given the monetary value of any employment benefits she forfeited absent sufficient evidence of these benefits being presented to the Hearing Commissioner. No deduction for a failure to mitigate her damages with sufficient job-seeking activities was allowed in light of DCF's failure to present any evidence to prove this claim. *Joseph v. Massachusetts Department of Children and Families (Decision of the Hearing Commissioner)*, [Thomas-George-C] 45 MDLR 5 (2023).

Civil Penalty

Hearing Officer Simone R. Liebman fined a Fall River real estate broker \$10,000 in the form of a civil penalty where she blatantly disregarded laws barring discrimination in rental housing against families with young children. The broker was renting apartments that had not been deleted. *Southcoast Fair Housing Center, Inc. v. Krishna Priya, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 79 (2023).

A Fall River real estate broker was found liable for housing discrimination to a fair housing nonprofit employing testers where she refused to show rental apartments to two of its testers because they stated they had children under six. Compensatory damages in the amount of \$2,270 were awarded to reimburse the nonprofit for the cost of the investigation, as well as a \$10,000 civil penalty for blatantly disregarding laws that prevent landlords from refusing to rent apartments to families because they are not deleted. *Southcoast Fair Housing Center, Inc. v. Krishna Priya, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 79 (2023).

Having cited the "woeful failures" and "preposterous defenses" of the Department of Children and Families, Commission Chair Sunila Thomas-George imposed a \$10,000 civil penalty on the agency payable to the Commonwealth in the case of a social worker at DCF denied reasonable accommodation for her Cushing's Disease. *Joseph v. Massachusetts Department of Children and Families (Decision of the Hearing Commissioner)*, [Thomas-George-C] 45 MDLR 5 (2023).

Compensatory

Hearing Officer Simone R. Liebman awarded compensatory damages in the amount of \$2,270 to a housing nonprofit that investigated landlords refusing to rent to families with children. The damages were intended to cover the costs of the investigation that found that a Fall River real estate agent repeatedly refused to show unleased apartments to families with small children. *Southcoast Fair Housing Center, Inc. v. Krishna Priya, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 79 (2023).

Discrimination Prevention Training

– Handicap

Acting on a Motion to Reconsider from the Department of Children and Families, Chair Sunila T. George granted, in part, a modification to her previous orders relating to training and policy requirements under the remedies section in her original decision. Chair George ruled in May of 2023 that DCF was liable for discrimination in the case of a social worker formerly in its employ who had suffered a constructive discharge due to

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the agency’s failure to reasonably accommodate her Cushing’s Disease. *Joseph v. Massachusetts Department of Children and Families (Decision of the Hearing Commissioner)*, [Thomas-George-M] 45 MDLR 53 (2023).

After finding that a regenerative medicine company had wrongfully denied reasonable accommodation to a purchasing agent suffering from fibromyalgia, Hearing Officer Simone R. Libman ordered her immediate former superior, as well as company managers and human resource professionals, to undergo MCAD “Accommodation Request 201” training within 90 days of the receipt of her decision. *Gurnett v. Organogenesis, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 17 (2023).

In the case of a former social worker denied reasonable accommodations for her Cushing’s Disease, Commissioner Sunila Thomas-George issued sweeping five-year discrimination-prevention training orders to DCF requiring it to review its current policies and participate in hostile-work environment and retaliation trainings, as well as reasonable accommodation trainings. The DCF personnel required to attend these trainings are the Commissioner, ADA Coordinators, Diversity Officers, employees performing a human resource function, Area Directors, and legal counsel who participate in employee accommodation requests. *Joseph v. Massachusetts Department of Children and Families (Decision of the Hearing Commissioner)*, [Thomas-George-C] 45 MDLR 5 (2023).

Emotional Distress**—Handicap Discrimination**

Hearing Officer Simone R. Liebman awarded only \$10,000 in emotional distress damages in the case of a New Bedford nurse found to have been wrongfully discharged in a handicap discrimination case where the Complainant quickly found a new, and higher paying job, and grossly exaggerated his mental suffering when testifying at hearing. *Jenson v. Rockdale Care & Rehabilitation Center (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 54 (2023).

A purchasing agent for a regenerative medicine company denied reasonable accommodation in the form of permission to work two days remotely to help her cope with her fibromyalgia was awarded \$75,000 in emotional distress damages where the denial led to acute anxiety and stress and impacted her marital relationship. *Gurnett v. Organogenesis, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 17 (2023).

A former social worker whose Cushing’s Disease DCF failed to accommodate and who then suffered harassment at the hands of DCF personnel to the point of constructive discharge was entitled to \$35,000 in emotional distress damages where the conduct of her superiors left her distraught, overwhelmed, and ostracized, and it took her no less than four years to get back to a “place of happiness.” *Joseph v. Massachusetts Department of Children and Families (Decision of the Hearing Commissioner)*, [Thomas-George-C] 45 MDLR 5 (2023).

—Sexual Orientation Discrimination

The Full Commission affirmed the 2018 decision of Hearing Officer Betty E. Waxman awarding \$25,000 in emotional distress damages to a gay male patron of a South End restaurant who was refused access to the bathroom and then subjected to gay slurs and manhandling by the restaurant doorman. The damage award was found to be correct given the testimony about the negative changes that the homophobic incident had on the victim’s personality and lifestyle. *May v. Parish Cafe, Inc. and Factotum Tap Room, Inc. (Decision of the Full Commission)*, [Full Commission-A] 45 MDLR 35 (2023).

—Stress

A purchasing agent for a regenerative medicine company denied reasonable accommodation in the form of permission to work two days remotely to help her cope with her fibromyalgia was awarded \$75,000 in emotional

distress damages where the denial led to acute anxiety and stress and impacted her marital relationship. *Gurnett v. Organogenesis, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 17 (2023).

Publicity

As part of her damage award in a case involving housing discrimination on the part of a Fall River real estate broker refusing to rent apartments to families with small children, Hearing Officer Simone R. Liebman required the broker to include in future advertising language that stated “Families Welcome”. *Southcoast Fair Housing Center, Inc. v. Krishna Priya, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 79 (2023).

Discharge**Constructive**

A purchasing agent for a regenerative medicine company was unable to show that her employer’s refusal to accommodate her request for two days of remote work constituted a constructive discharge where there was insufficient evidence of any kind of disability-based harassment or other aggravating factors that would have forced the Complainant to resign. *Gurnett v. Organogenesis, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 17 (2023).

Citing the “woeful failures” and “preposterous defenses” of the Department of Children and Families, Commission Chair Sunila Thomas-George found the agency liable for lost wages of \$101,567 and \$35,000 in emotional distress damages in the case of a former social worker whose Cushing’s Disease it failed to accommodate. The agency was found to have constructively discharged the Complainant by subjecting her to a hostile work environment and working conditions so intolerable and dangerous to her fragile health that any reasonable person would have chosen to resign. *Joseph v. Massachusetts Department of Children and Families (Decision of the Hearing Commissioner)*, [Thomas-George-C] 45 MDLR 5 (2023).

Evidence**Burden of Persuasion or Proof**

In a decision by Commission Chair Sunila T. George, a complaint alleging disparate treatment due to pregnancy was dismissed where no discriminatory animus was shown as to the Complainant’s pregnancy status on the part of the day care center’s management. The decision also includes a discussion as to why the Hearing Commissioner did not rely on the *McDonnell Douglas* burden shifting framework for the use of indirect evidence to prove discrimination. *Johnson v. Arabic Evangelical Baptist Church, Inc. (Decision of the Hearing Commissioner)*, [Thomas-George-R] 45 MDLR 47 (2023).

Indirect Evidence

In a decision by Commission Chair Sunila T. George, a complaint alleging disparate treatment due to pregnancy was dismissed where no discriminatory animus was shown as to the Complainant’s pregnancy status on the part of the day care center’s management. The decision also includes a discussion as to why the Hearing Commissioner did not rely on the *McDonnell Douglas* burden shifting framework for the use of indirect evidence to prove discrimination. *Johnson v. Arabic Evangelical Baptist Church, Inc. (Decision of the Hearing Commissioner)*, [Thomas-George-R] 45 MDLR 47 (2023).

Full Commission Review**Damages**

The Full Commission affirmed the 2018 decision of Hearing Officer Betty E. Waxman awarding \$25,000 in emotional distress damages to a gay male patron of a South End restaurant who was refused access to the bath-

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room and then subjected to gay slurs and manhandling by the restaurant doorman. The damage award was found to be correct given the testimony about the negative changes that the homophobic incident had on the victim's personality and lifestyle. *May v. Parish Cafe, Inc. and Factotum Tap Room, Inc.* (Decision of the Full Commission), [Full Commission-A] 45 MDLR 35 (2023).

Emotional distress damages in the amount of \$50,000 in a sexual harassment case were affirmed by the Full Commission given the testimony as to the severity and duration of the harassment that interfered with the Complainant's ability to do her job and left her humiliated and depressed. *Osorio v. Standhard Physical Therapy* (Decision of the Full Commission), [Full Commission-A] 45 MDLR 1 (2023).

Handicap Discrimination

The Full Commission affirmed a 2019 ruling of former Hearing Officer Judith E. Kaplan dismissing a disability discrimination claim from a discharged insurance agency worker suffering from diabetes and other ailments. The Hearing Officer found that his discharge was not discriminatory and arose from his insubordination and lack of gratitude to his employer, but went on to find that the insurance agency had failed to reasonably accommodate his hearing disability with the installation of a CallCaption telephone. No emotional damages were awarded, as these were found to be *de minimis*, but the employer was ordered to participate in MCAD disability-discrimination training. Legal fees for the Commission Counsel who represented the Petitioner were requested in the amount \$25,714 but these were reduced by 70% to \$7,714 because of the Petitioner's unsuccessful claim of unlawful termination. *Roberge v. Sullivan, Keating & Moran Insurance Agency* (Decision of the Full Commission), [Full Commission-A] 45 MDLR 43 (2023).

Retaliation

The Full Commission affirmed a 2019 decision of Hearing Officer Eugenia M. Guastaferrri dismissing a complaint filed by the former Director of Inpatient Services at MSPCA's Angell Memorial Hospital who claimed that her discharge was retaliatory for her reporting obnoxious conduct by a male technician who engaged in acts directed at a colleague that could be construed as sexual harassment and which led to his termination. The Full Commission agreed that there was no causal link between the Complainant's termination and this protected activity and that she was discharged for inappropriate conduct, declining performance, and not being a team player. The Complainant argued on appeal to the Full Commission that the employer's grant to her of a raise before she was fired proved these reasons were pretextual, but the Full Commission found that these 3% raises were routine and not dependent on good performance. *Suomala v. Massachusetts Society for the Prevention of Cruelty to Animals* (Decision of the Full Commission), [Full Commission-A] 45 MDLR 63 (2023).

A 2018 ruling by former Hearing Officer Betty E. Waxman awarding damages to a wrongfully terminated manager of a physical therapy firm who was fired after complaining about sexual harassment was affirmed by the Full Commission which noted the shifting and unconvincing non-retaliatory reasons offered by her employers in defense of their actions. They were found to be pretextual. *Osorio v. Standhard Physical Therapy* (Decision of the Full Commission), [Full Commission-A] 45 MDLR 1 (2023).

Sex Discrimination or Sexual Harassment

The Full Commission affirmed a 2018 decision by former Hearing Officer Betty E. Waxman finding a physical therapy firm and its two managers liable for \$50,000 in emotional-distress damages to a former female manager subjected to relentlessly crude sexual harassment. The decision rejects the managers' arguments that the evidence of harassment was not credible and reaffirms the Hearing Officer's conclusion that the Complainant's discharge was retaliatory in view of the shifting and unconvincing reasons offered by her employers in defense of their actions. Also

affirmed was the amount of \$50,000 in emotional distress damages given the testimony as to the severity and duration of the harassment that interfered with the Complainant's ability to do her job and left her humiliated and depressed. The attorney's fee and demand for costs was paired back from \$19,389 to \$15,319 to eliminate reimbursement for time and expense related to a voluntary polygraph by the Complainant. *Osorio v. Standhard Physical Therapy* (Decision of the Full Commission), [Full Commission-A] 45 MDLR 1 (2023).

Sexual Orientation Discrimination

The Full Commission affirmed the 2018 decision of Hearing Officer Betty E. Waxman awarding \$25,000 in emotional distress damages to a gay male patron of a South End restaurant who was refused access to the bathroom and then subjected to gay slurs and manhandling by the restaurant doorman. The decision rejected the Appellant's arguments attacking the Hearing Officer's witness credibility determinations and found these to be supported by substantial evidence in the record. The emotional distress damages award was ruled to be correct given the testimony about the changes the homophobic incident had on the victim's personality and lifestyle. Finally, the decision affirms the piercing of the corporate veil in finding the ownership of the cafes by two separate entities under common control met the various requirements for combining them for purposes of liability and discrimination prevention training. *May v. Parish Cafe, Inc. and Factotum Tap Room, Inc.* (Decision of the Full Commission), [Full Commission-A] 45 MDLR 35 (2023).

Training Order

The Full Commission affirmed a discrimination prevention training order imposed on two Boston cafes as the result of a homophobic encounter of the Complainant with one of the cafe's employees at one of the locations. Given the Commission's piercing of the corporate veil analysis, and the essential fact that this was one company operating in two locations, the decision found it to be reasonable that employees from both locations undergo the trainings. *May v. Parish Cafe, Inc. and Factotum Tap Room, Inc.* (Decision of the Full Commission), [Full Commission-A] 45 MDLR 35 (2023).

Handicap Discrimination

Defenses

– Pretextual

A New Bedford nursing home's defense of a wrongful termination complaint that cited the discharged nurse for sending a patient for outside medical care after a fall was pretextual, and the employer went so far as to fabricate evidence supporting this contention. *Jenson v. Rockdale Care & Rehabilitation Center* (Decision of the Hearing Officer), [Liebman-C] 45 MDLR 54 (2023).

Disabilities

– Cushing's Disease

A DCF social worker was a disabled person under the statute where a brain tumor had impacted the function of her pituitary gland causing it to produce excessive cortisol leading to Cushing's Disease. Her medical complications therefrom included hypertension, diabetes, weight gain, and adrenal insufficiency. The disease also provoked nausea, weakness, fatigue, dizziness, and unconsciousness. *Joseph v. Massachusetts Department of Children and Families* (Decision of the Hearing Commissioner), [Thomas-George-C] 45 MDLR 5 (2023).

– Headaches

Hearing Officer Simone R. Liebman found that a nurse working at a New Bedford nursing facility who suffered from migraines was a handicapped person with a qualified disability. The Complainant suffered from Post

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Concussive Syndrome, which results in migraines and mildly blurred vision. *Jenson v. Rockdale Care & Rehabilitation Center (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 54 (2023).

Discriminatory Animus

A New Bedford nursing home's discharge of a nurse suffering from migraines was rooted in discriminatory animus amply demonstrated by the conduct and attitude of his supervisor toward him when he was unable to serve as many double shifts as she hoped. *Jenson v. Rockdale Care & Rehabilitation Center (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 54 (2023).

Prima Facie Case

The cause of the discharge of a New Bedford nurse suffering from migraines was routed in discriminatory animus and was amply demonstrated by the conduct and attitude of his supervisor toward him when he was unable to serve as many double shifts as she hoped. *Jenson v. Rockdale Care & Rehabilitation Center (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 54 (2023).

Qualified Handicapped Person

Hearing Officer Simone R. Liebman found that a nurse working at a New Bedford nursing facility who suffered from migraines was a qualified handicapped person where he was perfectly capable of performing his routine duties but was only limited in his ability to perform an excessive number of double shifts. *Jenson v. Rockdale Care & Rehabilitation Center (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 54 (2023).

—Asthma

A purchasing agent employed for five years by a regenerative medicine company specializing in skin substitutes was a qualified handicapped person where her fibromyalgia and neurological issues did not prevent her from performing the essential functions of her position, provided she could be reasonably accommodated with permission to work remotely for two days a week. *Gurnett v. Organogenesis, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 17 (2023).

—Back Injury

A DCF social worker suffering from Cushing's disease was a qualified disabled person under the statute where, contrary to the agency's contention, the ability to drive clients was not an essential function of her job and her inability to drive could be accommodated with public transportation. Also, her job description did not prevent her from performing client transportation duties without doing the driving herself. *Joseph v. Massachusetts Department of Children and Families (Decision of the Hearing Commissioner)*, [Thomas-George-C] 45 MDLR 5 (2023).

Reasonable Accommodation**—Cushing's Disease**

DCF was found to have failed to reasonably accommodate a social worker suffering from Cushing's Disease when refusing to limit her caseload to 10 as requested by her doctor, and then claiming without justification that such a reduction would impact the workload of other social workers. The request for a reduced caseload was only five cases under the maximum caseload permitted by the collective bargaining agreement and was minute when compared to the fluctuating total of 700-900 cases that the office managed at the time. As such, the request would not have caused the agency a hardship. Also undermining DCF's claim of hardship was its failure to participate in any kind of interactive dialogue as to the request or make any kind of individualized consideration of it. *Joseph v. Massachusetts Department of Children and Families (Decision of the Hearing Commissioner)*, [Thomas-George-C] 45 MDLR 5 (2023).

—Fibromyalgia

A regenerative medicine company wrongfully denied a reasonable accommodation to a purchasing agent in the form of permission to work remotely two days a week. The Complainant's lengthy commute exacerbated her fibromyalgia and neurological issues and the company's concerns with on-site teamwork, live participation in special events, and supervision of her work could be addressed during the three days she would be working on-site. *Gurnett v. Organogenesis, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 17 (2023).

—Interactive Dialogue

A regenerative medicine company was unable to show that providing two days of remote work to an employee suffering from neurological issues exacerbated by her commute would cause the enterprise undue hardship where the reality of the workplace did not require 100% on-site work for its purchasing agents and the vast majority of the Complainant's job could be performed remotely. *Gurnett v. Organogenesis, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 17 (2023).

A regenerative medicine company offered ineffective accommodations to an employee suffering from fibromyalgia that was exacerbated by her lengthy commute. The accommodations offered were a conference room in which to stretch, a stand-up desk, and the opportunity to change her work hours, but these did not address the aggravation of her symptoms caused by sitting in her car during her lengthy commute. *Gurnett v. Organogenesis, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 17 (2023).

A regenerative medicine company failed to enter into an interactive dialogue to discuss remote work for an employee with neurological issues exacerbated by a long commute where the human resources department was "in transition" and struggling to understand the role of the interactive process. Moreover, rather than engage in any kind of dialogue, her supervisor simply rejected her request for remote work and worked to encourage her separation from the company. *Gurnett v. Organogenesis, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 17 (2023).

DCF's claim that a social worker's request for a reduced case load constituted a hardship for the agency was undermined both by its failure to participate in any kind of interactive dialogue as to the request or make any kind of individualized consideration of it. *Joseph v. Massachusetts Department of Children and Families (Decision of the Hearing Commissioner)*, [Thomas-George-C] 45 MDLR 5 (2023).

Housing Discrimination**Children**

A Fall River real estate broker was found liable for housing discrimination to a fair housing nonprofit employing testers where she refused to show rental apartments to two of its testers because they stated they had children under six. Compensatory damages in the amount of \$2,270 were awarded to reimburse the nonprofit for the cost of the investigation, as well as a \$10,000 civil penalty for blatantly disregarding laws that prevent landlords from refusing to rent apartments to families because they are not deeded. *Southcoast Fair Housing Center, Inc. v. Krishna Priya, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 79 (2023).

Testers

A Fall River real estate broker was found liable for housing discrimination to a fair housing nonprofit employing testers where she refused to show rental apartments to two of its testers because they stated they had children under six. *Southcoast Fair Housing Center, Inc. v. Krishna Priya, Inc. (Decision of the Hearing Officer)*, [Liebman-C] 45 MDLR 79 (2023).

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