

NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS

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Krista McLaughlin v. Nashua Diner

E (S) (H) (R) 0033 - 12

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ORDER ON THE MERITS

NH COMMISSION  
FOR HUMAN RIGHTS

1. A public hearing in this matter was held at the United States District Court for the District of New Hampshire on February 17, 2016. Commissioners David N. Cole, Paul J. Phillips, and Jacqueline H. Davis served as the Hearing Commissioners. Commissioner Cole was designated Chair.
2. Krista McLaughlin ("Complainant") was present and represented by attorney Jannette Mooney. Nashua Diner ("Respondent") was present and represented by attorney Jeffrey Mazur, with attorney Keri A. Welch as local counsel. Sotirios Migos ("Mr. Migos") was present as Representative for the Respondent, together with a Greek language interpreter hired by the Commission at Mr. Migos' son's request on December 14, 2015.
3. The Chair made the following rulings at the start of the hearing:
  - a. The Commission's exhibits were admitted into evidence.
  - b. Respondent's motion to reconsider the Chair's Order on Complainant's Motion for Relief dated February 9, 2016 (the "Chair's Order"), was granted with respect to Mr. Mazer's admission *pro hac vice*, and Mr. Mazer was so admitted.
  - c. Complainant's motion *in limine*, dated February 12, 2016, was denied as deficient by reason of lacking any exhibits to support the requested relief.
4. Mr. Mazer moved orally for further reconsideration of the Chair's Order so as to allow Respondent's Response to be heard on the merits. The Chair denied the oral motion as untimely and beyond the scope of Mr. Mazer's written motion, which had been limited to the issue of Mr. Mazer's admission *pro hac vice*.
5. Pursuant to the Chair's Order of February 9, 2016, the Hearing was limited to evidence on damages. The Chair's Order found that no Answer and Response had been filed on behalf of Respondent in compliance with the Commission's rules. Therefore, all allegations in the Charge were deemed admitted.
6. Complainant worked in Respondent diner as a waitress. She alleged both verbal sexual harassment and sexual assault on multiple occasions by Mr. Migos. Among the allegations of the Charge that were deemed admitted under the Chair's order are the following:
7. Mr. Migos offered Complainant money to stay late after work for "sexual favors." She refused. Complainant reported the incident to Mr. Migos' son who said it would never happen again, and if she did not take legal action she would not have to work with his

father again. Shortly thereafter she was suspended for two weeks for not cleaning the bathrooms properly. (Commission Ex.1)

8. After she returned from suspension Mr. Migos assaulted Complainant by hitting her on the buttocks. When Complainant objected, Mr. Migos assaulted Complainant by pressing his groin against her. Complainant again reported the incident to Mr. Migos' son. She was terminated the following Monday. (Commission Ex. 1)
9. Complainant called one witness, Complainant Krista McLaughlin, whose testimony was credible and compelling. There was a visible change in the witness's demeanor when describing an occasion on which she saw Mr. Migos' son in a public mall after her employment had ended. She also described changing her physical appearance by wearing sweatpants, loose clothing, and going without makeup so as to not draw any attention to herself, both when working at the Respondent's Diner and following her termination from that employment. She also described a period of time when she was unable to get out of bed due to feeling depressed after she was terminated from her employment by the Respondent. The Hearing Commissioners find this testimony to be credible and that the events set forth in the Charge were responsible for affecting her personal life and her initial attempts to seek re-employment.
10. Respondent called no witnesses.

### DAMAGES AWARDED

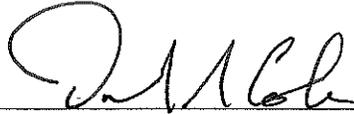
- A. Based on the egregious nature of the sexual harassment and sexual assault as alleged, combined with Respondent's offering Complainant money for sex after work and making promises to her in exchange for not taking "legal actions" in regard to the Respondent's unlawful sexual assault and harassment, Respondent is ordered to pay an administrative fine to the State of New Hampshire general fund in the sum of Ten Thousand dollars (\$10,000.00) pursuant to N.H. RSA 354-A:21 (II) (d) (1).
- B. Respondent is ordered to pay Complainant Krista McLaughlin the sum of Eight Thousand Sixty dollars, (\$8,060.00) in lost wages, representing the uncontroverted sum of her weekly pay of Three Hundred Ten dollars (\$310.00) per week for twenty six weeks.
- C. As compensatory damages for the circumstances described in paragraph nine above, Respondent is ordered to pay the Complainant Krista McLaughlin the sum of Fifteen Thousand dollars, (\$15,000.00).
- D. Although Complainant testified about additional lost or diminished wages, no exhibits were introduced to substantiate her testimony. Complainant also testified regarding alleged damages resulting from the Complainant's eviction, but her testimony was equivocal regarding the source and use of funds required for a new apartment, and Complainant introduced no receipts or other documents to substantiate her claims. Complainant's testimony was also equivocal regarding the alleged damages resulting from the Complainant's need to obtain a replacement leased or financed vehicle after her own vehicle was repossessed, allegedly as a result of her termination of employment by

the Respondent. The Complainant introduced no receipts or other documents to substantiate any of these alleged losses. Therefore no damages are awarded for these alleged losses.

- E. Payment of the damages set forth in paragraphs A, B and C shall be made within five days of the expiration of the date of any appeal as set forth in N.H. RSA 354-A:22 (IV) or the date set forth for filing a Notice of Appeal with the N.H. Supreme Court.

SO ORDERED.

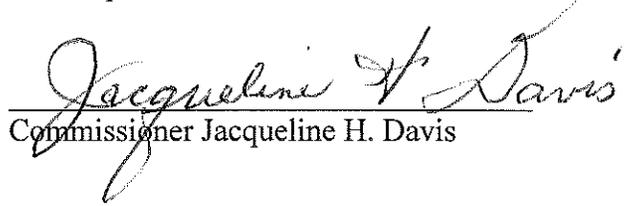
Date: March 21, 2016



Commissioner David N. Cole, Esq., Chair



Commissioner Paul J. Phillips, Esq.



Commissioner Jacqueline H. Davis