

# Kentucky Commission On Human Rights

*Working to eradicate discrimination*

## Employment Disability Case

### Hearing loss not grounds for dismissal

The Kentucky Commission on Human Rights (KCHR) Board of Commissioners on June 20 found that a Laurel County Kentucky business discriminated against a local man, withdrawing a job offer upon learning he had a hearing impairment.

The KCHR ruled in favor of Walter Combs after its investigation discovered that hearing is not an essential function to the job at the factory. Moreover, employees on the factory floor are required to wear ear plugs.

The Laurel Cookie Factory had just offered temporary employee Walter Combs a permanent position on the factory floor, but when the company physical exam revealed a hearing loss, management withdrew the offer and terminated Mr. Combs' temporary job.

In the case of Combs v. The Laurel Cookie Factory, KCHR No. 5449-E, Mr. Combs was awarded \$3,000 for humiliation and embarrassment and \$1,200 for lost wages and benefits.

Mr. Combs was initially sent to work at the cookie company in March 2004 by an employment agency called the Job Shop. He worked as a cookie packer for about four weeks, and his work was continually evaluated as satisfactory.

When the company learned of his hearing disability, and the permanent job offer was withdrawn, Mr. Combs brought a complaint against the factory under the Kentucky Civil

Rights Act (KRS 344.040) on grounds that he was discriminated against in employment because of his disability. Disability is one of the protected classes in the law against discrimination and enforced by the state human rights commission.

The commission held a hearing on Oct. 4, 2005, in Laurel County. The hearing officer issued Findings of Fact, Conclusions of Law, and a Recommendation Order on May 24, 2006, in favor of Mr. Combs.

The commission board ruled to accept the hearing officer's recommendations and ordered the factory to pay the damages, lost wages and benefits for the unlawful practice of disability discrimination.

If you feel like you may be a victim of discrimination or would simply like more information about the law, call our office headquarters in Louisville at 1.800.292.5566. •



## Kentucky Remembers! Heritage Project

In 2006, our nation lost the voices of some of our most powerful and recognizable advocates for human rights. The memorial services of Rosa Parks and Coretta Scott King were national tributes to the legacies of service they represented and stark reminders of the great hurdles we as a society still must overcome to realize our national commitment to equality and justice for all. In Kentucky,

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we mourn the recent losses of Leonard Gray Sr., Anne McCarty Braden, and Henry French Wallace, tireless champions of civil rights.

In these times of change, we at the Kentucky Commission on Human Rights are sharpening our focus on reaching the future leaders in our communities, young Kentuckians ready to stand and be counted as supporters of human rights. In this spirit, the KCHR is launching The Kentucky Remembers! Carter G. Woodson Human Rights Heritage Project, a new initiative devoted to supporting a collaborative, long term commitment to preserving and teaching the history of diverse human rights struggles in the commonwealth through youth leadership.

We are excited to announce that the Kentucky Remembers! project is supported by a powerful grouping of governmental and non-governmental planning partners. The initiative will be spearheaded by KCHR in cooperation with the Kentucky Arts Council, the Oral History Commission of the Kentucky Historical Society, the Kentucky African American Heritage Commission, the Kentucky United Way, as well as the Filson Historical Society and is supported in part by the National Endowment for the Humanities.

The first undertaking of the project will be the Summer 2007 Kentucky Remembers! Youth Training Camp hosted by Boys & Girls Clubs and other youth serving agencies in every appellate region of the state. Through this summer camp, seven teams of high school and

middle school aged youth will be given the tools and training to help author a new Human Rights Heritage Textbook for Kentucky.

In 2008, a traveling exhibit showcasing the voices and visions of local human rights advocates will be ready for display across the commonwealth.

If you are interested in helping KCHR realize this goal or want more information about the Kentucky Remembers! project, please contact Caitlin Swain-McSurely, Kentucky Remembers! project manager, by email at [Caitlin.Swain@ky.gov](mailto:Caitlin.Swain@ky.gov) or by phone at 1.800.292.5566.

*This project is funded in part by the National Endowment for the Humanities. Any views, findings, conclusions, or recommendations expressed in this project do not necessarily reflect those of the National Endowment for the Humanities. •*

## New Hate Crimes Advisory Group

The Kentucky Commission on Human Rights Hate Crimes Advisory Group held its first community meeting on July 24, at Covington City Hall. The Covington Human Rights Commission hosted the meeting.

Judge Linda Strite Murnane, the

executive director of the Kentucky Commission on Human Rights, said the meeting was held in Covington because the Hate Crimes Advisory Group has found that a large number of hate crimes in recent years have occurred in Northern Kentucky.

Judge Murnane said the group wanted to hear from community leaders on what they believe is causing the problem and how they think the Hate Crimes Advisory Group could help them.

About 20 Northern Kentucky officials including Florence Mayor Diane Ewing Whalen, Covington City Commissioner Jerry Stricker, Northern Kentucky NAACP President Jerome Bowles, John Delaney, head of the Public Defenders office in Campbell and Kenton Counties, Leo Calderon of Northern Kentucky University, and three members of the Covington Human Rights Commission – Chair Don Smith, Charles King and Marie Braun – attended the meeting.

The Hate Crimes Advisory Group was told of incidents where people who are homosexual have been attacked on the streets by people in Cincinnati and Covington. The group was told of an incident where six African American males in Newport were strip-searched by police, although four were not charged with any crimes.

The group was told of a woman with a disability who said she was sexually assaulted but was advised by a social worker not to file a complaint.

The group heard about problems

with students in Northern Kentucky schools who have made racially abusive remarks.

Robert Asseo, a Boone County resident and the first Latino appointed to the Kentucky Commission on Human Rights, said he has lived in Northern Kentucky for nearly 20 years and has seen many improvements involving discrimination issues. He told the Hate Crimes Advisory Group that he is working with Boone County Judge-Executive Gary Moore to improve the racial climate in Boone County.

Judge Murnane said the Hate Crimes Advisory Group would make recommendations to Northern Kentucky officials and offer help regarding hate crimes. She said the Hate Crimes Group may also work with schools to educate students about discrimination.

The Hate Crimes Advisory Group is a coalition of Kentucky agencies and organizations dedicated to eliminating discrimination.

Members include the Federal Bureau of Investigation; the United States Attorney's office; the Department of Public Advocacy; the Bowling Green Police Department; the Paducah Human Rights Commission; Eastern Kentucky University; the Council on American-Islamic Relations (Ohio); the Kentucky Commission on Human Rights; the Kentucky Conference for Community and Justice; the Kentucky Fairness Alliance; the American Civil Liberties Union of Kentucky; the Kentucky Attorney General's office; and the U.S. Department of Housing

### Kentucky Commission on Human Rights

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and Urban Development. •

## Disability Justice Project

KCHR has collaborated with Spalding University in Louisville to develop valuable information for the state concerning obstacles to employment and lack of services for the deaf and hard of hearing in Western Kentucky. Six Spalding occupational therapy interns performed a study and conducted interviews with research participants in the Western region. The final report is near completion and is expected to be available at [www.kchr.ky.gov](http://www.kchr.ky.gov) by the end of the year. •

## Maysville Commission Revived

The Maysville City Commission has revived the Maysville Human Rights Commission, which has been dormant for many years.

Maysville Mayor David Cartmell appointed five new members to the city Human Rights Commission, which agreed to meet the third Thursday of each month at Maysville City Hall, 216 Bridge Street, Maysville.

Terry Cunningham, the president of the Maysville-Mason County NAACP, noted earlier this year that the Maysville Human Rights Commission

hadn't met in years. He asked KCHR Field Supervisor John C.K. Fisher to attend a Maysville City Commission meeting and speak about the benefits of local human rights commissions.

Fisher attended a meeting this spring and informed the board that local human rights commissions are vital in promoting a fair and just community. And whether the issues involve race, color, gender, age, religion, disability, families or national origin, everyone has protection under state law, Fisher told the board.

Maysville officials told Fisher that its Human Rights Commission hadn't met because the city hadn't had any discrimination complaints in recent years.

But Fisher said that many local human rights commissions in Kentucky refer complaints to KCHR, which has a full-time staff to investigate such matters. He said that many local commissions promote equality and have community educational programs. He asked the board to revive its local commission.

The Maysville Human Rights Commission took a training session from KCHR in August.

The new board members have said they want to be prepared to hear complaints if necessary but will refer complaints to KCHR if their board doesn't have jurisdiction.

Board members agree they are enthusiastic and look forward to promoting equality in Maysville.

## Roundtable

KCHR hosted its semi-annual Local Human Rights Commission Roundtable in Henderson on June 8. Representatives from most of Kentucky's 19 local commissions participated. The program was a full day, longer than previous years' half-day programs. The change was based on feedback from participants who asked for the longer agenda because of the value of the roundtables. Topics this summer included grant writing and increasing visibility within the local community. •

## Local Commission Partners

The Lexington-Fayette Urban County Human Rights Commission on June 21 cosponsored The Covenant with Black America program at the Government Center Ballroom in Lexington. More than 100 people attended the event, which was also cosponsored by the Lexington Commission on Race Relations. The event was moderated by KCHR Chair Priscilla Johnson and was based on the book, "The Covenant with Black America," which features writers such as Tavis Smiley. The panel included Lexington Police Chief Anthony Beatty, Dr. Joan Griffith, an assistant professor of pediatrics, and Dr. William Parker, retired vice chancellor for minority affairs at the University of Kentucky. Participants asked questions about health care, the

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## Board of Commissioners

Chair Priscilla Johnson, Lexington . Robert Asseo, Florence . Richard Brown, Owensboro . Thurmond Coleman Sr., Louisville  
Henry Curtis, Frankfort . Ann Darragh, Bardstown . Todd Hollenbach IV, Louisville . Deborah Kent, Louisville . Anita Simmons, Hopkinsville  
Regena Triplett, Pikeville . Y. Denise Payne Wade, Louisville

justice system and education.

The Lexington commission also helped promote the Migrant Network Coalition conference on July 27 and 28 at the Lexington Public Library. The event featured a panel to discuss a range of issues involving immigrants and social change.

The Richmond Human Rights Commission hosted a youth forum on Aug. 11, in the wake of an incident this past May involving Richmond Police and an African American teen who was handcuffed after he tried to get officers to help his mother, who had been hit by a car. The incident is currently being reviewed by officials and undergoing public scrutiny. Meanwhile, the Richmond Human Rights Commission, KCHR and other groups held the youth forum in August to educate teens about their rights and responsibilities when encountering police.

The Lebanon Human Rights Commission hosted a Cinco de Mayo celebration in the city. This, their first such celebration, attracted a very large crowd and helped bring together the immigrant and native populations in Lebanon.

Congratulations to Kellie Watson, executive director of the Louisville Jefferson County Human Relations Commission. She and her husband Dr. Kwane Watson recently welcomed their new son Kane to the family.

The Franklin-Simpson Human Rights Commission hosted their 2<sup>nd</sup> Annual Unsung Heroes Banquet in Franklin. The event honors leaders in the community who give tireless service to the people of Franklin and Simpson County. In August, the commission held its first Golf Scramble to raise money for scholarships.

The longtime chair of the Paducah Human Rights Commission has retired. Mr. Lloyd Fortune served as chair for over 15 years, offering unwavering support to the local commission, the state commission, and the community as a whole. Mr. Andrew Coiner, a local attorney, has been appointed to replace Mr. Fortune. Joining Mr. Coiner are several other new members of the Paducah Commission.

The Bowling Green Human Rights Commission celebrated 40 years of Human Rights Work in August. It began with a Unity Day Celebration in Bowling Green and followed with the 5<sup>th</sup> Annual Unity-All Gods Children Celebration on Saturday, August 19 at Roland Bland Park in Bowling Green. The Unity Celebration is held to promote unity and acceptance for all citizens in Bowling Green and Warren

County despite differences in race, color, religion, national origin and other protected classes.

## Commission Rulings

KCHR is the state government agency that enforces The Kentucky Civil Rights Act and the policies of federal civil rights laws. The board meets monthly to hear and rule on discrimination complaints. From May through August, it ruled to approve nine conciliation agreements, dismiss 97 complaints, which, after investigation or reconsideration, resulted in findings of no probable cause, accept four complaint withdrawals with private settlement terms and 12 complaint withdrawals without settlement and with a right to sue. The following conciliation agreements were reached through KCHR negotiations between complainants and respondents in consideration for the full and complete resolution of claims of alleged discrimination:

*Claude Able Jr. and Donald Craft v. Alpha Machine and Tool Inc., in Louisville:* In two separate complaints, the complainants alleged discrimination based on race and retaliation in employment, violations of the Kentucky Civil Rights Act (KRS 344.040 and KRS 344.280, respectively) and the U.S. Civil Rights Act. Mr. Able, who is white, alleged a supervisor made racist comments in his and other white employees' presence, and that less than 10 days later, Mr. Craft, who is black, was fired for what the employer asserted was a breach of workplace policy. Mr. Craft said he protested his firing after which the owner investigated. Mr. Able said that in the investigation, when asked by management, he admitted to hearing the supervisor's racist comments. Three days later, Mr. Able says he was fired for what employers asserted was a lack of work. During the course of investigation, KCHR found probable cause to believe that discrimination occurred. The respondent denied all allegations of violations of the law. Prior to further litigation, the parties agreed to conciliate the matter, and the respondent agreed to compensate the complainants in the amount of \$10,000 (\$5,000 each), undergo civil rights compliance training, and undergo compliance monitoring by KCHR for three years.

*Lisa Grubbs v. Extendicare Homes Inc., in Cadiz:* The complaint alleged discrimination based on sex in employment, a violation of the Kentucky Civil Rights Act (KRS 344.040) and the U.S. Civil Rights Act. The complainant claimed she was fired because she was a pregnant

female. The respondent denied all allegations of discrimination and asserted the complainant was fired for failing to return after a leave of absence. During the course of investigation, the parties agreed to conciliate the matter, and the respondent agreed to compensate Ms. Grubbs in the amount of \$3,000, undergo compliance training, post for employees information about the right to equal opportunity, and undergo KCHR compliance monitoring for two years.

*Lindsay Miracle v. Shelton and Susan Bailey d/b/a Crossroads Market, in Liberty:* The complaint alleged discrimination based on sex in employment, a violation of the Kentucky Civil Rights Act (KRS 344.040) and the U.S. Civil Rights Act. Ms. Miracle alleged her employers told her they were terminating her because she was pregnant. During the investigation, KCHR found probable cause to believe discrimination occurred. The respondents denied all allegations of discrimination. Prior to further litigation, the parties agreed to conciliate the matter, and the respondents agreed to compensate Ms. Miracle in the amount of \$3,200, undergo civil rights compliance training, and undergo KCHR compliance monitoring for two years.

*Shirley Lyles v. The Kentucky Center, in Louisville:* The complaint alleged discrimination based on disability in a public accommodations facility, a violation of the Kentucky Civil Rights Act (KRS 344.120) and the Americans with Disabilities Act. Ms. Lyles, who uses a walker, claimed accessible seating was not available to her at a February 2004 performance at the center, and that she requested accessible seating when she purchased her ticket in advance. During the

course of investigation, the commission found probable cause to support the complaint. The respondent denied all allegations of unlawful discrimination. The parties agreed to conciliate the matter, and the respondent agreed to compensate the complainant in the amount of \$3,000, continue to comply with civil rights laws, continue to provide staff with civil rights compliance training, and undergo compliance monitoring by KCHR for three years.

*Carol Jecker v. Durbin Super Bowl LLC, in Erlanger:* The complaint alleged discrimination based on disability in a public accommodations facility, a violation of the Kentucky Civil Rights Act (KRS 344.120) and the Americans with Disabilities Act. The complainant, who uses a wheelchair, claimed the bowling facility lacked adequate handicapped parking spaces, and provided no disability access to its second floor or to its restrooms. Ms. Jecker said she was therefore unable to watch her daughter participate in a bowling tournament held at Durbin Super Bowl. During the course of investigation, the commission found probable cause to support the complaint. The respondent denied all allegations of unlawful discrimination. The parties agreed to conciliate the matter, and the respondent agreed to compensate Ms. Jecker in the amount of \$7,500, and modify its premises over the next three years to correct violations identified by the state Americans with Disabilities Act coordinator.

*Melanie Rogers-Watkins v. Kroger, in Stanton:* The complaint alleged discrimination based on sex in employment, a violation of the Kentucky Civil Rights Act (KRS 344.040) and the U.S. Civil Rights Act. Ms. Rogers-Watkins claimed she

was denied a promotion based on her sex, a pregnant female. The respondent denied all allegations of unlawful discrimination and asserted the complainant was not the most qualified candidate for the position. The parties agreed to conciliate the matter, and the respondent agreed to compensate Ms. Rogers-Watkins in the amount of \$1,000, and continue to comply with civil rights laws.

*Louise Wisdom v. Asian Buffet of LaGrange Inc., in LaGrange:* The complaint alleged discrimination based on disability in a public accommodations facility, a violation of the Kentucky Civil Rights Act (KRS 344.120) and the Americans with Disabilities Act. Ms. Wisdom, who uses the assistance of a service dog for her hearing disability, claimed the restaurant owner, Ms. Fei Quo Tang, refused to let Ms. Wisdom enter the restaurant with her dog. On March 29, 2006, the commission found probable cause to believe discrimination had occurred. During the course of investigation, the commission found probable cause to support the complaint. The respondent denied all allegations of unlawful discrimination. The parties agreed to conciliate the matter, and the respondent agreed to compensate the complainant in the amount of \$1,000, comply with civil rights laws, undergo civil rights compliance training, and provide a complimentary dinner at the restaurant for Ms. Wisdom and 14 people from Paws with Purpose, a local organization that provides training to service dogs. These individuals may bring their service dogs or service dogs in training.

*Hazel Osborne v. Capital Investment Group, d/b/a Florence Carriage Houses, LLC in Florence:* The complainant alleged discrimination based on disability

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in housing, a violation of the Kentucky Civil Rights Act (KRS 344.360) and the Federal Fair Housing Act, as amended, 42 USC 3601 et. seq. Ms. Osborne, who is unable to climb stairs because of her disability, claimed the apartment owner, Capital Investment Group, d/b/a Florence Carriage Houses, LLC, charged her a lease termination fee when she ended her lease early and moved from her apartment due to her inability to climb the stairs into the apartment. The respondent denied all allegations of unlawful discrimination. During the course of investigation, the parties agreed to conciliate the matter and the respondent agreed to the following: to

comply with fair housing laws, to refrain from seeking to collect a lease termination fee from the complainant, to send its managerial employees to fair housing training, to post the Commission's equal housing opportunity poster, and to distribute the Commission's fair housing pamphlet.

*Anibal and Sheila Abrego v. Lorraine Rowe in Florence:* The complainants alleged discrimination in housing based on disability, a violation of the Kentucky Civil Rights Act (KRS 344.360) and the Federal Fair Housing Act, as amended, 42 USC 3601 et. seq. Mr. and Mrs. Abrego claim that they were asked to move by the

respondent because her liability insurance was reportedly going to increase if she continued to rent to disabled tenants. The respondent denied all allegations of unlawful discrimination. On May 26, 2006 the commission found probable cause to believe discrimination had occurred. During the course of investigation, the parties agreed to conciliate the matter and the respondent agreed to compensate the complainant in the amount of \$2500 and contact KCHR if she purchases any rental property within five years of this agreement. If she does purchase property within five years of this agreement, respondent agrees to attend one Fair Housing training. •

