

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

# ANNUAL REPORT

## FISCAL YEAR 2025



*July 1, 2024 - June 30, 2025*



# MCAD Commissioners

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**Sunila  
Thomas George**  
(Chairwoman)



**Monserrate  
Rodríguez Colón**



**Nelly  
Jean-Francois**

## MCAD Executive Staff (as of June 30, 2025)

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**Michael Memmolo**  
Executive Director

**Deirdre Hosler**  
General Counsel

**Lila Roberts**  
Acting Chief of Investigations

**Shirani Jimenez**  
Director of Human Resources, DEI

**Diane Nordbye**  
Deputy General Counsel

**Andrew Espinosa**  
Deputy Chief of Investigations

# LETTER FROM THE EXECUTIVE DIRECTOR

Governor Healey, Lieutenant Governor Driscoll, Speaker Mariano, Senate President Spilka and Members of the General Court, in accordance with Chapter 151B, §3 (10) of the Massachusetts General Laws, I submit the Fiscal Year 2025 (FY25) Annual Report of the Massachusetts Commission Against Discrimination (“MCAD” or “Commission”), which covers the activities undertaken by the MCAD during the period of July 1, 2024 – June 30, 2025.

FY25 was an incredible year of growth and transformation for the Commission. The fiscal year began with two important developments. The agency’s first ever Executive Director began in the permanent role on July 1st, and on July 2nd the agency issued its revised Guidelines on Harassment in the Workplace. The start of the Executive Director’s term has ushered in a new era of leadership bringing greater clarity to the day-to-day operations and the substantive roles of agency staff and Commissioners. The revised Guidelines on Harassment in the Workplace—updated for the first time in almost two decades—represent a major achievement and is discussed in greater detail in the Legal Division section of this report.

*One of the greatest achievements of this fiscal year was the agency’s ability to retain staff. The agency realized only one voluntary separation of an MCAD team member, leaving to attend law school, and the retirement of an MCAD Commissioner at the conclusion of the fiscal year. During this same time, the agency successfully backfilled five investigator positions to assist in addressing its backlog and high caseloads. Towards the end of the fiscal year, the agency was able to post an additional three backfilled Investigator positions, and a Chief Financial Officer position, which the agency intends to hire in FY26.*

*Midway through the fiscal year, Governor Healey proposed amendments to the MCAD’s enabling statute as part of the FY26 budget. These recommendations were subsequently adopted and approved by the Legislature to be included in the final FY26 budget. The changes restructure the composition of the MCAD Commissioner and Advisory Boards, mandate the Executive Director position, and require the Executive Director to appoint a Chief Financial Officer. Following the adoption of these amendments, the agency began to transition its operations in preparation for the January 1, 2026, implementation date. Also on the legislative front, the agency held its first legislative briefing since 2018, seeking support for S.2014 and H.3109 (“An Act Relative to Creating the Massachusetts Against Discrimination Fund) identical bills sponsored by Senator Adam Gomez and Representative Carlos Gonazález respectively, and for increases to its FY26 budget.*

*For the first time in roughly seven years, the agency commenced three Commission initiated complaints and resolved two of them this fiscal year. These actions were made possible due to the exceptional leadership and work of MCAD Chairwoman Sunila Thomas George and Commission Counsel Supervisor Wendy Cassidy, together with the MCAD Office of General Counsel, whose legal guidance and collaboration strengthened the*



*Image: MCAD Executive Director Memmolo joins staff for a team building exercise during the FY25 All Staff Meeting in July 2025.*

overall resolution. These cases are discussed in greater detail in the Legal Division section of this report and in press releases found on the MCAD's website.

Agency staff vastly increased its community outreach and educational initiatives during FY25. Some of these highly visible events included Massachusetts Continuing Legal Education (MCLE) employment and housing law panels, Department of Early and Secondary Education (DESE) Annual Massachusetts Civics Showcases, Hispanic and Latinx Heritage Month celebrations, the City of Lawrence's Puerto Rican/Latinx rally, College and University lectures at Brandeis and New England School of Law, the 2025 Embrace Honors MLK Celebration, the City of Lawrence's Disability Awareness Month celebration, the MA Chapter of the National Association of Housing and Redevelopment Officials (NAHRO) conference, and the Springfield Fair Housing and Civil Rights Conference. Additionally, the agency was incredibly humbled to participate in the 60th Anniversary of the 1965 Freedom Rally—a full circle moment for the Commission and our current Chair as former MCAD Chairwoman Ruth Batson marched alongside Dr. Martin Luther King 60 years earlier. Finally, for the first time in its history, the agency marched in Boston's Pride Parade and participated in the Pride Festival, affirming the message that Massachusetts anti-discrimination law still applies to individuals who have been discriminated against based on their gender identity, expression or Trans status, despite changes to federal laws. Truly these events, and so many more that could not be noted here, demonstrate the agency and its staff's deep commitment to upholding and educating the entire Commonwealth, from the Berkshires to Lawrence, the importance of Massachusetts anti-discrimination laws and the protections they afford all in the Commonwealth.

The MCAD's FY24 annual report discussed the agency's new Comprehensive Case Management System (CCMS), including the RFR process and timeline for the project. I am proud to report that the project remains on-schedule with completion anticipated in the Spring of 2026. The new CCMS application will provide staff with a modern, integrated system that improves tracking and reporting, reduces administrative workload, and for the first time in the agency's history provides the public with the ability to file complaints of unlawful discrimination and track case progress and interactions completely online.

FY25 marked a pivotal period of preparation as the MCAD laid the groundwork for a generational transition in FY26. As the agency prepares to operate under a new Commissioner structure and launch a fully online system for filing discrimination complaints, significant focus has been placed on managing this transition thoughtfully and ensuring the regulatory framework is updated to support these operational changes.

The MCAD extends its sincere appreciation to Governor Healey, Lieutenant Governor Driscoll, the General Court and its leadership, Senate President Spilka and Speaker Mariano, for their continued support of the agency, its mission, and its resources. The agency further thanks the MCAD Advisory Board and community stakeholders for their partnership and collaboration. These accomplishments are the result of the dedication and expertise of the MCAD's mission-driven staff, whose professionalism and commitment continue to advance the agency's work across the Commonwealth.

Finally, at the end of this calendar year, the Commission marks the end of the historic three-member, full-time Commissioner structure but recognizes the enormous leadership and critical role that full-time Commissioners have played in shaping and advancing the agency's work over the past 80 years, leaving a lasting legacy on the history of the MCAD. A special thank you to Commissioner Monserrate Rodríguez Colón, Commissioner Neldy Jean Francois, and Chairwoman Sunila Thomas George.



Michael D. Memmolo, MCAD Executive Director

# ABOUT THE MCAD

*Established in 1946, the Massachusetts Commission Against Discrimination (“MCAD” or “Commission”) is the independent state agency that enforces Massachusetts anti-discrimination laws in employment, housing, public accommodations, higher education admissions, and credit and lending. MCAD advances its mission to eradicate discrimination in the Commonwealth through the investigation, prosecution, and adjudication of complaints of discrimination, as well as through preventative and remedial training and public education.*

*Anyone who lives in, works in, or visits Massachusetts may file a complaint with the Commission if they believe they have been treated differently or unfairly based on membership in a protected class, including race (including natural and protective hairstyles), color, national origin, ancestry, religion, disability, sex (including pregnancy), age, sexual orientation, familial or marital status, military service, veteran status, criminal record, gender identity or expression, or participation in a protected activity, such as requesting a reasonable accommodation, utilizing public assistance, or reporting harassment.*

*MCAD maintains three public offices, located in Boston, Springfield, and Worcester, where members of the public may learn more about the Commission’s resources, procedures, conduct or schedule an intake appointment, and consult with a member of the MCAD staff.*

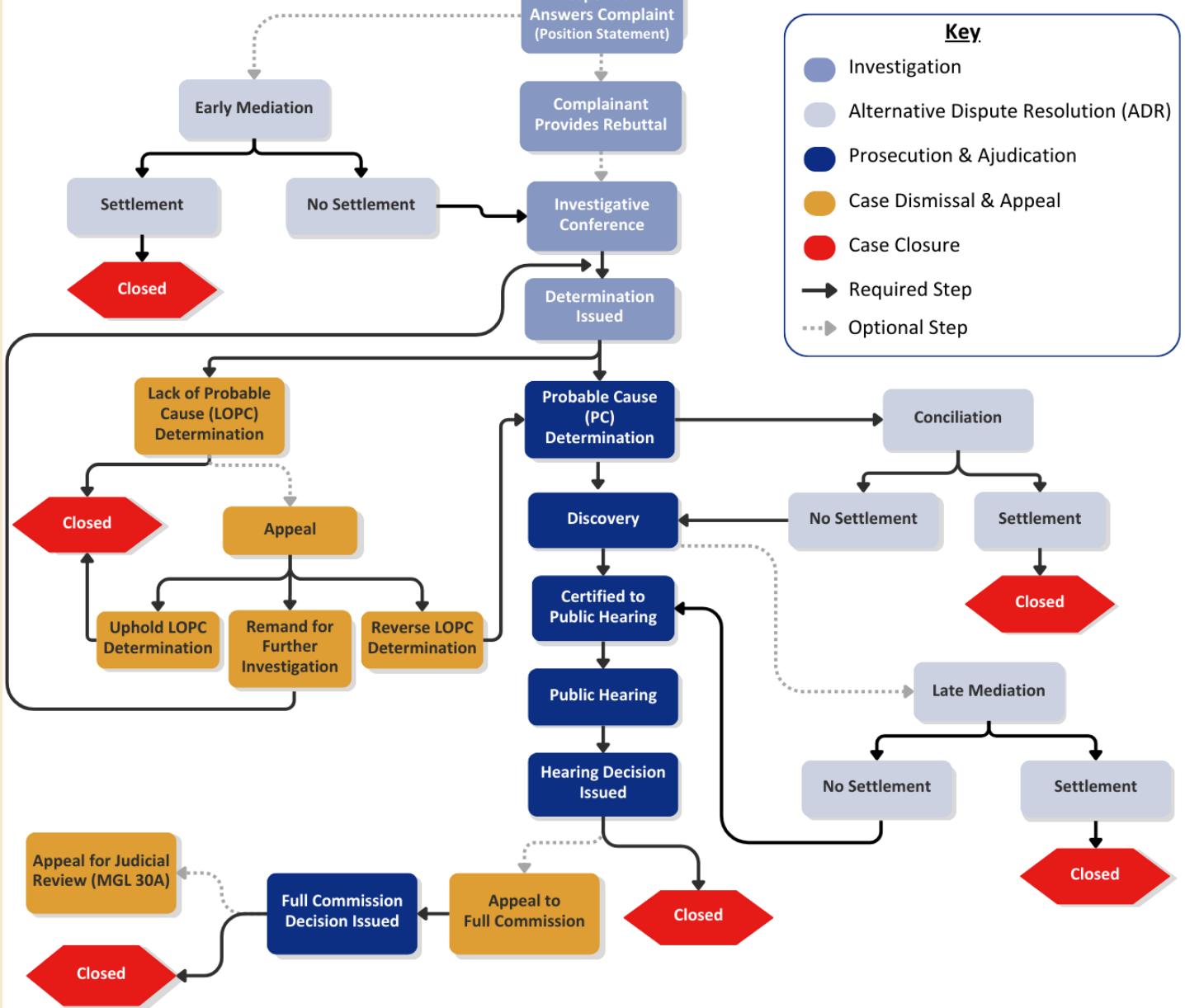
*To learn more about the MCAD, visit [www.mass.gov/mcad](http://www.mass.gov/mcad).*



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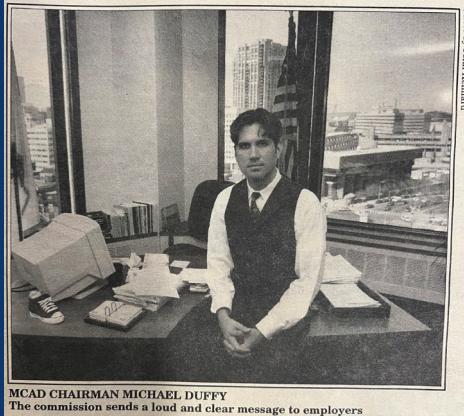
# THE MCAD COMPLAINT PROCESS FLOWCHART



# FY25 AT-A-GLANCE

2 commission-initiated complaints settled	6,710 people trained in anti- discrimination law	623 public records requests
11 public hearing & attorney's fee decisions	3,243 new complaints filed	440 mediations & conciliations
311 anti-discrimination trainings conducted	1,347 dispositions issued	15% probable cause investigative findings

## FY25 Visit from Former MCAD Chair Michael Duffy (1991–1996)



MCAD CHAIRMAN MICHAEL DUFFY  
The commission sends a loud and clear message to employers



Images: [left] Chair Duffy poses at his desk for *The Massachusetts Lawyer* April 15, 1996 article spotlighting the MCAD's 50th Anniversary; [center] Michael Duffy poses at same desk in FY25; [right] Chair Geroge, Executive Director Memmolo, and Michael Duffy pose next to Chair Duffy's photo that hangs in the MCAD Boston Office hallway.

Former MCAD Chair Michael Duffy visited the Commission in FY25, offering reflections on his historic tenure as the youngest and first openly gay individual to lead the agency. Appointed at age 26, Chair Duffy helped modernize the MCAD during a period of reduced resources, introducing the Commission's first Hearing Officers to address a growing backlog and launching the nation's first civil rights employment testing program, which uncovered discriminatory hiring practices across the Commonwealth and influenced enforcement models nationwide. He also prioritized reaching newly enfranchised groups, establishing the AIDS Ombudsman to advance HIV/AIDS discrimination investigations and presiding over the landmark *Douglas McKinley v. Boston Harbor Hotel* case (the first AIDS-related case to reach a public hearing at the MCAD) whose decision signaled that discrimination based on perceived HIV status would not be tolerated in Massachusetts. His FY25 visit to the MCAD Boston Office served as a meaningful reminder of the lasting impact of bold, forward-looking leadership in civil rights enforcement.

# FY25 DIVISION & UNIT REPORTS

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## OPERATIONS & FINANCE DIVISION

The MCAD's Operations and Finance Division is comprised of the Fiscal / Budget Unit, Information Technology (IT) Unit, Operations Unit, and Training, Education, & Community Outreach Unit. These functions are managed by the Chief of Operations and Finance (CFO).

### **Fiscal/Budget Unit**

The Fiscal/Budget Unit manages all financial and budgetary functions of the Commission. The Fiscal/Budget Unit prepares and submits the Commission's annual budget request to the Commonwealth's Administration and Finance Secretary and to the House and Senate Ways and Means committees. The unit monitors fiscal year spending to ensure spending meets planned levels, makes necessary recommendations for spending deviations, oversees all the Commission's purchasing, procurement, and contract management and manages accounts payable, accounts receivable, and revenue activities. The Fiscal/Budget Unit is comprised of the Fiscal Officer and is led by the CFO.

### **Information Technology (IT) Unit**

The IT Unit oversees all the Commission's IT and telephone functions including desktop and application support for all the Commission's offices. The IT Unit also procures and maintains all of the Commission's hardware and software. The IT Unit is comprised of the Director of Information Technology.

### **Operations Unit**

The Operations Unit manages the operations of the Commission's three office locations (Boston, Springfield, and Worcester) and oversees lease management for the Commission's Springfield and Worcester offices. The Operations Unit is responsible for day-to-day operations of all locations including, but not limited to, maintenance, security, ID access, and asset inventory.

### **FY25 Update on Funding, Personnel, & Operations**

In FY25, the agency realized an increase to its state appropriation in the amount of \$130,000. The agency was grateful for this increase; an increase of at least \$530,000 was necessary to maintain FY24 operation levels. Additionally, the agency realized a \$130,000 reduction to its contract with the Equal Employment Opportunity Commission (EEOC). These combined shortfalls required the agency to reduce spending in FY25. These reductions included the elimination of five Investigator positions that were funded in FY24 and anticipated to be filled in FY25, deferring the backfilling of two Investigators positions and one Office Support Specialist position until mid-fiscal year (January 2025). Notwithstanding, the agency was successful in its employee retention efforts, realizing only two voluntary separations in FY25, one of which was the retirement of an MCAD Commissioner, continuing positive staff growth for the second consecutive fiscal year. Finally, the agency made great progress in the replacement of its Case Management System (CMS). As articulated in last year's annual report, "work on the project began in May 2024 and is expected to last 12-16 months for project completion. At the end of FY25 the Commission, with its vendor partner Accelare, completed 14 months of design, programming and testing on the new Comprehensive Case Management System (CCMS), and will be entering project completion, data migration, and end-to-end testing in Q1 of FY26, with the system's public launch is anticipated in Q2 of FY26. The CCMS project remains one of the agency's top priorities to expand reach and accessibility to all across the Commonwealth.

# FY25 MCAD Budget Overview

July 1, 2024 - June 30, 2025

## BUDGETARY DIRECT APPROPRIATION

Line Item 0940-0100	\$94,628^
State Appropriation	\$8,367,888
	\$8,462,516

## RETAINED REVENUES COLLECTED

Line Item 0940-0101	\$9,573^
HUD	\$1,021,236
Public Records Request	\$775
	\$1,031,584
Line Item 0940-0102	\$3,621^
Training Program Total	\$258,820
	\$262,441

Line Item 0940-0103	
EEOC	\$1,202,145
Attorneys' Fees	\$15,000
PAC (from FY24 to FY25)	\$2,192,200
	\$3,409,345

<b>Retained Revenue Total</b>	<b>\$4,703,370</b>
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<b>TOTAL FY25 Appropriated Funds &amp; Collected Retained Revenue</b>	<b>\$13,165,886</b>
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Expenses	
Payroll	\$(7,991,322)
Rent	\$(193,184)
Administrative Overhead	\$(3,724,022)
<b>Total FY25 Expenses</b>	<b>\$(11,908,528)</b>
<b>PAC to FY26</b>	<b>\$(1,205,503)</b>
<b>Reversion to the General Fund</b>	<b>\$51,855</b>

<sup>^</sup> Collective Bargaining Agreement Draw

# FY26 MCAD Budget Overview

July 1, 2025 - June 30, 2026

State Appropriation (Line Item 0940-0100)	\$8,811,293
Retained Revenue (Line Item 0940-0101)	\$1,100,000*
Training Program (Line Item 0940-0102)	\$410,000*
Retained Revenue (Line Item 0940-0103)	\$1,400,000*
<b>TOTAL FY26 BUDGET</b>	<b>\$11,721,293</b>

\* Retained Revenue Spending Cap

# TRAINING, EDUCATION, & COMMUNITY OUTREACH UNIT

The MCAD's Training, Education, and Community Outreach (Training) Unit provides internal and external discrimination prevention trainings and assists with recruitment and onboarding of new MCAD staff and interns. The Training Unit is comprised of the Director of Training and two full-time Trainers.

In FY25, the Training Unit conducted and participated in 311 discrimination prevention training sessions, community events, and career fairs across the Commonwealth, reaching approximately 6,710 participants. Trainings cover a range of topics, including employment, housing, sexual harassment, disability and religious accommodations, and conducting internal investigations. The Commission also hosted its 26th Annual Courses for Equal Employment Opportunity (EEO) Professionals, a multi-day program featuring three popular courses: "Train-the-Trainer," "Responding to Accommodation Requests," and "Conducting Internal Discrimination Complaint Investigations."



*Image: Director of Training Alison Caton (second from left) and Director of Communications Justine LaVoye join the City of Lawrence Disability Commission at the Lawrence Disability Awareness Month community resource fair.*

## Number of People Impacted by MCAD-Led Trainings

● FY23   ● FY24   ● FY25

**4,608**

**6,877**

**6,710**

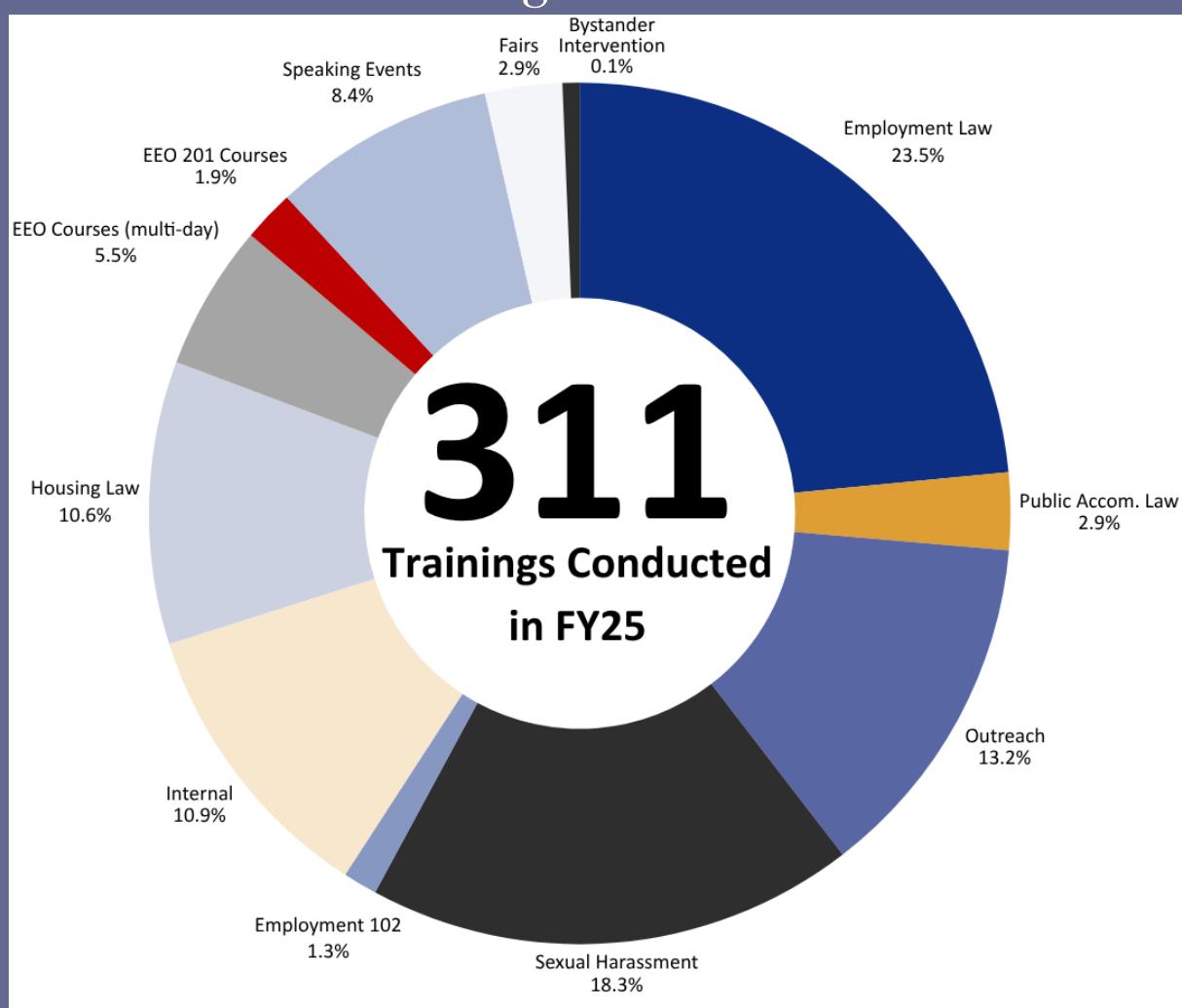
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Approximately 55% of trainings were held in-person, while virtual sessions with live MCAD trainers remained a highly utilized option for organizations and individuals. Of the 184 paid trainings facilitated in FY25, 94 were required as affirmative relief (training mandated as part of an MCAD settlement or decision) while 90 were conducted for organizations proactively seeking anti-discrimination training or refresher sessions for their employees. Among these 90 sessions, 34 were "Open Enrollment" courses, which allow multiple organizations to participate without committing an entire staff to a private training. These sessions served 343 participants from 165 organizations, 107 of which were previously required to attend MCAD-led trainings as part of affirmative relief.

A notable FY25 accomplishment for the Training Unit was the creation of the "Navigating Discrimination" guide, co-developed in partnership with the Mayor's Office of LGBTQIA2S+ Advancement

(MOLA) and the Northeastern University School of Public Affairs. This resource maps the jurisdictions of all 15 Massachusetts agencies that handle discrimination and hate crime complaints and provides step-by-step guidance for the public on where and how to report discriminatory treatment. The guide includes eligibility criteria, instructions for filing complaints, key deadlines, required documentation, and additional resources for legal referrals. The project was led by Director of Training, Alison Caton, who spearheaded the partnership with MOLA, conceptualized the resource, co-supervised Northeastern capstone students, coordinated with participating organizations, and oversaw the planning and development of the guide.

Beyond delivering trainings and educational resources, the Training Unit plays a central role in strategic recruitment, onboarding, and professional development of new MCAD staff and interns, including the planning and coordination of all New Employee/Intern Training (NEIT). Through these efforts, the unit continues to advance the agency's mission by equipping staff, stakeholders, and the public with the knowledge and tools to prevent and address discrimination across the Commonwealth.



# HUMAN RESOURCES & ADMINISTRATIVE DIVISION

The MCAD's Human Resources & Administrative Division provides all aspects of personnel administration, human resource direction, and support for the employees and other divisions/units of the MCAD. The Human Resources & Administrative Division is comprised of the Director of Human Resources(HR), Diversity, Equity and Inclusion (DEI), the Acting Administrative Supervisor, and ten administrative staff members who provide essential office support including reception, mail room oversight, and complaint processing and service, among other tasks.



*Image: Director of HR, DEI, Shirani Jimenez (third from right) celebrating National Hispanic & Latinx Heritage Month in September 2024 sitting with members of the Boston-based Investigations and Administrative Units who represent diverse Latine cultural, geographic, and ancestral backgrounds and identities.*

The HR Unit within the division is responsible for leading payroll, employee benefits, and leave administration; labor and employee relations; Americans with Disabilities Act (ADA) and all other internal and external reasonable accommodation requests; the implementation of agency-wide personnel policies and procedures; and all posting, hiring, and recruiting of open MCAD positions. The Director of Human Resources, DEI is the agency's designated Diversity Officer, ADA Coordinator, and Harassment Officer charged with overseeing all diversity and accommodation considerations and professional development opportunities.

In FY25, the supervision of the Administration Unit was transitioned to the Director of HR, DEI, formally establishing a new division within the agency. The Unit was placed under the leadership of a promoted staff member, Edith Rosenthal, who previously served as Coordinator in the Housing Investigations Unit. As Acting Administrative Supervisor, Edith demonstrated strong adaptability in assuming this expanded role, working to create a cohesive and collaborative unit. She led a review of roles and responsibilities, revamped duties for each team member, and identified procedural gaps and inconsistencies. Through this process, the Administration Unit began standardizing practices, strengthening internal coordination, and identifying training and support needs to ensure the unit operates under consistent processes and procedures across the agency.

In addition, Employment Investigations Supervisor, Gina Leonard, played a key role in strengthening cross-unit operations during FY25. Supervisor Leonard led a comprehensive revamp of the Commission's intake process, assuming responsibilities that had historically resided within the Administration Unit. Through her leadership and willingness to assume an enhanced scope of work, the intake process became more streamlined and responsive, and improved coordination between the Administrative and Investigations Units, supporting more efficient case processing across the agency.

The leadership demonstrated in the division was further recognized at the state level with the Director of HR, DEI and Supervisor Leonard both being recipients of the FY25 Manuel Carballo Performance Recognition Award for their dedication and meaningful contributions to the Commonwealth of Massachusetts.

# INVESTIGATIONS DIVISION

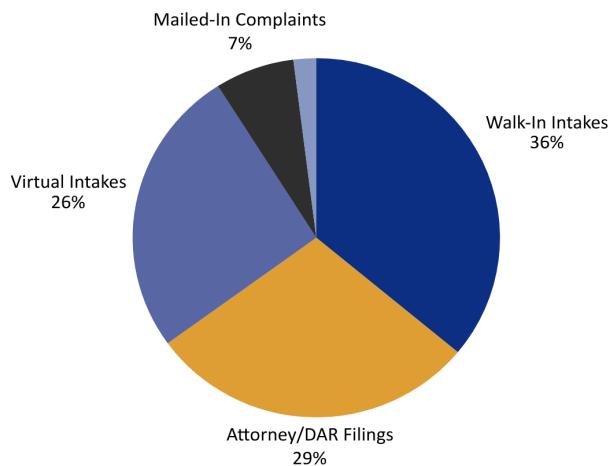
The MCAD's Investigations Division handles complaints of discrimination in the Commission's jurisdictional areas of employment, housing, public accommodations, higher education admissions, and credit and mortgage lending. If a filed complaint falls outside the agency's jurisdiction or fails to meet the criteria for investigation, it is dismissed. Otherwise, the MCAD initiates a formal investigation process of the complaint (refer to "The MCAD Complaint Process Flowchart" on page 1).

The Investigations Division is comprised of approximately 40 total employees, which includes Investigators, Senior Investigators, and Investigative Supervisors who conduct intakes and investigate complaints of discrimination; Attorney Advisors who provide legal guidance and support to the investigative staff; and the division's leadership: the Deputy Chief and the Acting Chief of Investigations who oversee unit productivity and personnel operations. Each investigative unit is led by an Investigative Supervisor, with the exception of the Housing Unit, which is led by the Housing Supervisor. The Attorney Advisor Unit is led by the Acting Attorney Advisor Supervisor who is also the Commission's Review & Authorization Attorney.

On average, the MCAD's Investigations Division receives approximately 3,000 complaints each year. In FY25, the MCAD logged 3,243 new complaints. To ensure accessibility for constituents across the Commonwealth, the Commission continues to offer various methods of filing a pro se complaint of discrimination. Walk-in intake appointments are conducted Monday through Friday at the MCAD's Boston, Worcester, and Springfield offices on a first come, first served basis. Virtual intakes are scheduled through a scheduling portal on the Commission's website and conducted via

Zoom, or by phone if the constituent cannot access Zoom. The agency also accepts mail-in complaints. For complainants represented by counsel or a Duly Authorized Representative (DAR), electronically submitted complaints are also accepted.

## FY25 Filing Methods for Complaints of Discrimination

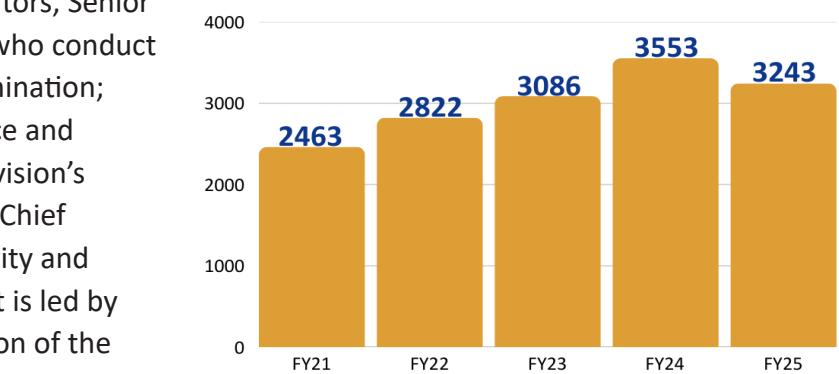


Out of the new complaints filed in FY25, approximately 36% resulted from walk-in intakes, 29% were submitted electronically, 26% resulted from virtual intakes, 7% were submitted through the mail, and the remainder came in through other channels.

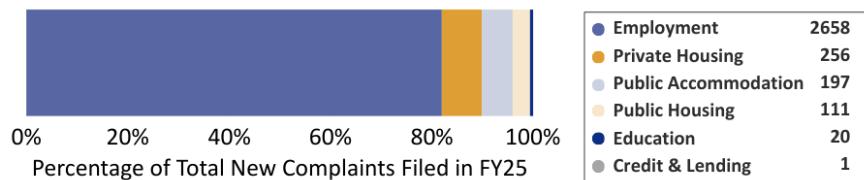
FY25 was a year of exceptional productivity for the Investigation Division, with staff diligently processing an ever increasing number of active investigations. In addition to conducting intakes, Investigators and Investigative Supervisors

## Annual Inventory of New Complaints Filed

all cases filed during the fiscal year (July 1 and June 30)



## Jurisdiction of New Complaints Filed



Percentage of Total New Complaints Filed in FY25

Employment 2658  
Private Housing 256  
Public Accommodation 197  
Public Housing 111  
Education 20  
Credit & Lending 1



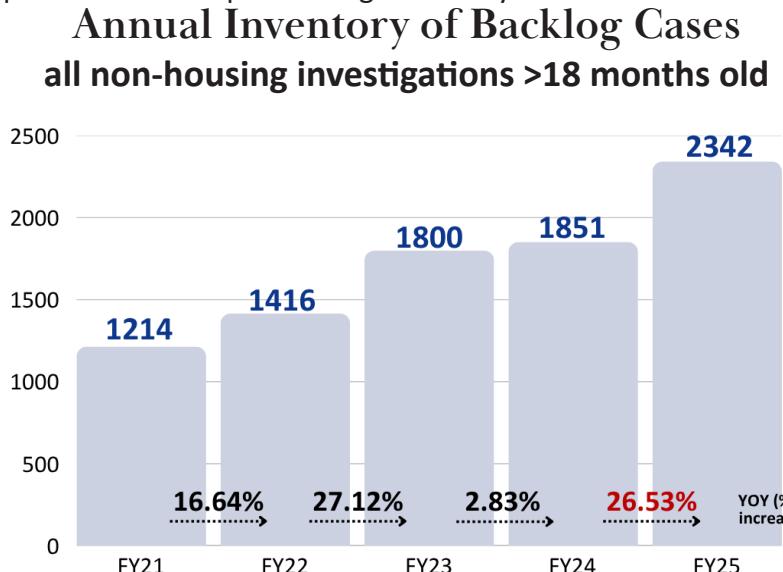
*Image: MCAD Housing Unit Supervisor, Jillian Winniman, presents "Fair Housing 101" at the 2025 Fair Housing and Civil Rights Conference held at Western New England University on May 20, 2025.*

conducted 1,575 Investigative Conferences, issued 786 Requests for Information, conducted 182 witness interviews, and referred more than 300 cases to the Alternative Dispute Resolution (ADR) Unit for early mediation. Attorney Advisors processed 407 motions and reviewed the 1,347 investigative dispositions that were issued during the fiscal year. The Housing Unit, with the help of the ADR and Administrative Units, processed 20 pre-determination settlements, 2 case withdrawals with settlement, 45 other withdrawals, and 127 administrative closures. Attorney Advisors were an indispensable part of the agency's preliminary hearing (appeals) process, partnering with the Commission Counsel Unit to review approximately 377 appeals in FY25. Furthermore, Attorney Advisors and Commission Counsel reviewed all of the new complaints filed in FY25 for jurisdiction, translating to approximately 8-12 complaints being reviewed by individual attorneys on each day of

the fiscal year. Of the total complaints filed, 373 complaints requiring additional jurisdictional review prior to authorization for formal investigation were reviewed by the Attorney Advisor who coordinates the Agency's Review and Authorization Program.

The Investigations Division, through the Housing Unit, continued its partnership with Suffolk University School of Law Housing Discrimination Testing Program (HDTDP), now named the Center for Housing Justice and Policy (CHJP). This grant-based partnership resulted in HDTDP conducting 14 tests on housing providers in Massachusetts. On June 30, 2025, the fiscal year testing partnership ended successfully.

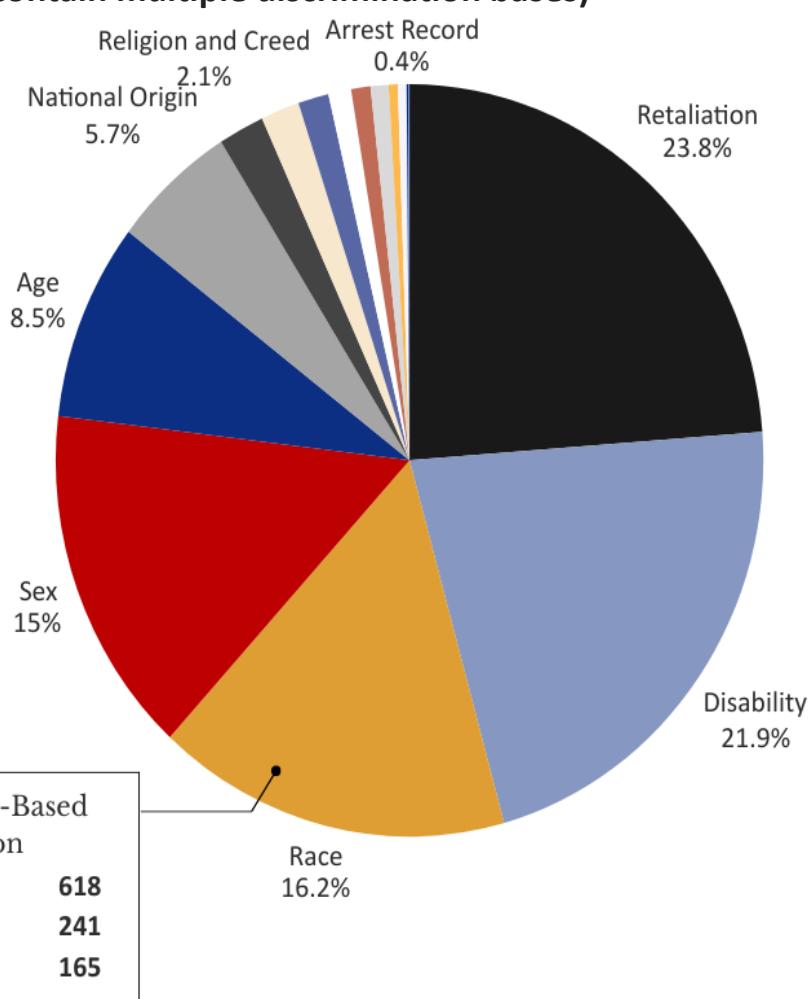
During the fiscal year, the MCAD was committed to training and investing in the professional development of its staff to improve the quality of its investigations and overall work. The division is actively revising its processes and implementing novel ways to eliminate the Commission's backlog and prioritize all cases.



## FY25 Breakdown of New Complaints by Protected Class

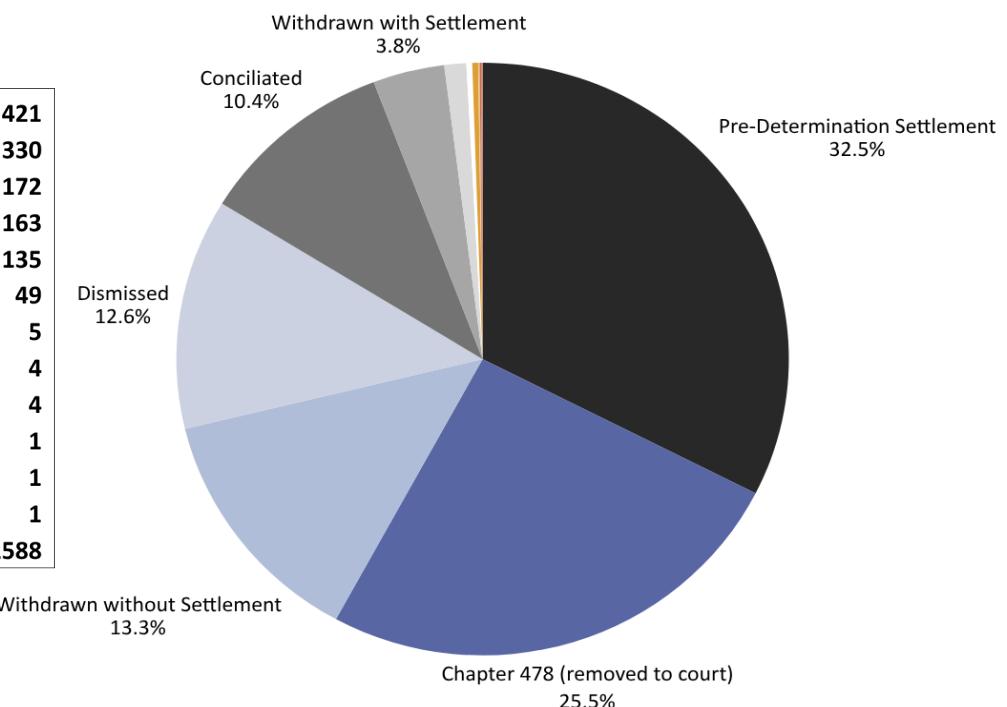
(a complaint may contain multiple discrimination bases)

● Retaliation	1620
● Disability	1491
● Race	1100
● Sex	1024
● Age	580
● National Origin	385
● Religion and Creed	143
● Sexual Orientation	120
● Public Assistance	95
□ Gender Identity	71
● Familial Status	60
● Other & Class Action	56
● Military / Veteran Status	28
● Arrest Record	26
● Marital Status	5
● Genetics	4



## FY25 Administrative Closures

● Pre-Determination Settlement	421
● Chapter 478 (removed to court)	330
● Withdrawn without Settlement	172
● Dismissed	163
● Conciliated	135
● Withdrawn with Settlement	49
● Judicial Review	5
● Failure to Cooperate	4
● Unable to Locate Complainant	4
● Compliance with Order	1
● No Violation	1
● Bankruptcy	1
<b>Total Cases Closed in FY25</b>	<b>2588</b>



# ALTERNATIVE DISPUTE RESOLUTION (ADR) UNIT

The MCAD's Alternative Dispute Resolution (ADR) Unit provides ADR services to parties who wish to work to resolve their disputes and reach settlements of their claims through mediation or conciliation. The Unit offers ADR services throughout the life of a case at the MCAD. The ADR Unit is comprised of the Director of Alternative Dispute Resolution and two full-time Mediators and is a unit of the Legal Division.

In FY25, the ADR Unit continued to work on its ongoing goals of maintaining and improving the high quality of the mediators' work; creating productive unit communications; developing consistency in practices and case processes among all MCAD offices; ensuring ongoing communication and collaboration between the ADR Unit and all other MCAD units; educating attorneys who practice at the MCAD on mediations and conciliations process and best practices; and nurturing sustained dialogue between lawyers who practice at the MCAD and before the ADR Unit.

The ADR Unit's efforts toward these outlined goals include regular, weekly communication between mediators and expanded discussions during the Unit's monthly meetings. The Unit regularly reviews and updates materials, attends advanced trainings, refines internal guidelines, and convenes monthly "Best Practices" discussions with colleagues from across the MCAD offices. These meetings, often featuring presentations from experienced mediators, lawyers, and Commission partners, provide a forum to share experiences, challenges, and strategies for effective mediations and conciliations.

The ADR Unit tracks quantitative data to monitor case volume and settlement success rates. In addition, the unit maintains an internal database that organizes all MCAD decisions and awards, which is organized by discrimination claim type and includes awards for emotional distress damages.

In the Spring of 2025, the ADR Unit gave presentations to MCAD interns and Investigations Division staff in all three of the Commission's offices. The sessions covered the Unit's role at the Commission, the mediation and conciliation processes, case valuation methods, and examples of unique mediation experiences, as well as the ADR Unit's involvement at three different points in the life of an MCAD case: early mediation (pre-determination), conciliation (post-determination or post-certification), and late mediation (post-discovery). Each discussion concluded with a robust Q&A session.

The ADR Unit continued its popular "Roundtable Meetings" in FY25, including two held in the Fall of 2024. These presentations provide practical, hands-on guidance on mediations and conciliations at the MCAD and offer a forum for feedback between the members of the Bar and the ADR Unit. Lawyers who practice at the MCAD are invited to attend these Roundtables, which always fill to capacity and have waitlists. Given such positive response, the ADR Unit partnered with the Communications Unit in FY25 to develop a recorded version of the ADR Roundtable Meeting, which is now available on the MCAD website.

The ADR Unit presently performs all mediations and conciliations remotely by using Zoom, unless there is a unique circumstance, like disability accommodation request, that requires a mediation or a conciliation to take place in-person. Conducting virtual mediations and conciliations has received strong support from both the lawyers who represent clients here at the MCAD, as well as the parties themselves, who appreciate the convenience and comfort of being able to attend from their offices or homes. Holding dispute resolution sessions virtually has not adversely impacted on the quality of the negotiations and continued to provide

several pragmatic advantages, including time and cost saving for parties and attorneys that the ADR Unit serves.

## FY25 ADR INTERVENTION TOTALS

**305**

Mediations  
**voluntary** pre-disposition  
resolution intervention

**135**

Conciliations  
**mandatory** post-probable  
cause resolution intervention

### Noteworthy Settlements from the ADR Unit in FY25

#### **Employment**

- In this employment discrimination case, Complainant alleged discrimination based on race, color, and disability. Complainant is Black and has Multiple Sclerosis (MS). Complainant alleged he was a strong performer and was surprised when Respondent terminated him for alleged performance issues. Complainant believes it was based on either his race or disability. The Complainant was terminated shortly after Respondent became aware of medical issues that the Complainant was experiencing. The case settled at conciliation for \$135,000.
- In this employment discrimination case, Complainant alleged Respondent failed to appropriately accommodate their disability. Complainant alleged she was allergic to ingredients in the COVID-19 vaccine, but Respondent had a strict policy requiring vaccination. Complainant requested to be exempt from the vaccine due to her medical issue. Complainant made multiple attempts to get vaccinated, but multiple different locations refused to administer the vaccine given her allergies. Respondent did not terminate Complainant's employment but would not allow Complainant to work until she was vaccinated. Ultimately, Complainant was granted an accommodation after a delay which allowed Complainant to return to work. The case settled at conciliation for \$15,975 in addition to crediting the Complainant with all accrued sick, vacation, and service credit.
- In an employment discrimination case, Complainant, a Black female employee in the healthcare field, alleged that she was held to a different standard from White employees. She was not hired for a position which would have been a promotion and for which Respondent hired someone who did not meet the job criteria. The case settled at mediation for \$100,000 and a discrimination prevention training was required for the employer's senior leadership and management-level staff.
- In this employment sexual harassment case, Complainant alleged that her supervisor, when interviewing her for a temporary position at the Respondent pharmaceutical company, told her this could lead to a permanent position if she performed well. Once hired, the Complainant alleged that her supervisor got her intoxicated at networking dinners, after which she was taken to the supervisor's hotel room and subjected to non-consensual sexual activity. Complainant also alleged that her supervisor insisted that she appear naked during remote online meetings on the Instagram app. Respondents contended that the relationship between the Complainant and her supervisor was consensual. The case settled in mediation for \$75,000.
- In this employment discrimination case, the Complainant, a tech sales engineer, alleged that her boss created a hostile environment by pressuring her to return to work very soon after she had a hysterectomy, disclosing the reason for her leave to customers, and making disparaging comments about the challenges that mothers face, which forced the Complainant to take medical leave. The case settled in mediation for \$40,000, largely for emotional distress.
- In this employment discrimination case, the Complainant alleged that she was subjected to disparate treatment, harassment, and retaliation on the basis of her national origin and additionally subjected to sexual harassment by multiple supervisors. The Complainant asserted that one supervisor had made repeated

offensive and demeaning comments on the basis of her national origin and that the company retaliated against her by delaying her immigration process after she reported the discrimination. Complainant also claimed that other supervisors repeatedly subjected her to lewd and offensive comments, unconsented touching and kissing, and unwelcome sexual propositions. Complainant claims that the company failed to investigate her reports of discrimination and harassment and instead retaliated against her for reporting the discriminatory conduct. Respondent denied the alleged failure to investigate, questioned the subjectively offensive nature of alleged comments and conduct, and denied any retaliation. The case settled at mediation for \$135,000.

- In this employment discrimination case, the Complainant alleged that he was subjected to sexual harassment on the basis of his sexual orientation by female co-workers and supervisors. The alleged conduct was largely undisputed, but the Respondent claimed that the Complainant frequently initiated the alleged conduct and denied that it was unwelcome or subjectively offensive. The case settled at mediation for \$35,000. The Respondent also committed to have all their employees complete the MCAD training on harassment, including sexual harassment, in the workplace, to certify that all employees review the MCAD Guidelines on Harassment in the Workplace, and to draft a sexual harassment prevention policy that will be submitted to the MCAD for review.
- In this employment discrimination case, the Complainant alleged that he was subjected to disparate treatment and sexual harassment on the basis of gender identity. The Complainant alleged that he was subject to intentional misgendering, as well as other harassment and disparate treatment. The case settled at mediation for \$50,000.
- In this employment discrimination case, the Complainant alleged that he was subjected to disparate treatment, harassment, and retaliation based upon his gender identity, his sexual orientation, and his disability. He also claimed that he was treated differently than heterosexual employees when he requested leave to care for his same-sex spouse who was sick and disabled. The Respondent denied the allegations and asserted that the Complainant had committed significant policy violations resulting in his termination. The case settled at mediation for \$15,000.

## **Housing**

- In this housing discrimination case, Complainant alleged Respondent was failing to appropriately accommodate his disability. Complainant has mobility issues and uses a wheelchair. Complainant requested a variety of reasonable accommodations to allow him to move freely around the unit. The accommodations included things such as ramps and automatic doors. Respondent believed some of these accommodations, like constructing a ramp, would pose an undue hardship. Ultimately, parties agreed on a number of automatic doors that reasonably resolved the issue. The case settled at mediation where Respondent agreed to provide the Complainant with a rental credit of \$9,000. Respondent also agreed to attend an MCAD housing discrimination training, to a policy review with the MCAD, and a variety of accommodations to be granted to Complainant.
- In this housing discrimination case, the Complainant, who is a tenant with Autism, alleged that Respondent failed to make reasonable accommodations for his disability. As terms of the settlement, the Respondent agreed to install a low-volume doorbell and instructed service and maintenance workers to use the doorbell rather than knocking on the door when arriving for service at the Complainant's unit. Respondent agreed to give the Complainant written notice that would be slid under his door at least 48 hours in advance of when repairs or maintenance work was to be scheduled and to give the Complainant the opportunity to have the work rescheduled by giving the Respondent at least 24 hour notice of the need to reschedule. The Respondent also agreed to provide the Complainant with written procedures that Respondent would follow, should the Respondent have a need to initiate any eviction proceedings.

- In this housing discrimination case, the Complainant has a German Shepherd that is an assistance animal for his disability. Complainant alleged that Respondent refused to sell the Complainant a mobile home. Respondent alleged that the reason for the denial was because the Respondent's insurance coverage would not cover any liability resulting from any injury or damage by the Complainant's assistance animal. The case settled at mediation for \$6,000 and the Respondent agreed to attend training in fair housing disability law.
- In this housing discrimination case, the Complainants alleged that they were denied the ability to lease an apartment because they have young children. The property owner (Respondent) allegedly stated a preference for having families with children reside in a first-floor apartment only. This case settled at mediation for \$10,500 with the Complainant given the right of first refusal to lease the Respondent's next available lead-free certified apartment. Respondent also committed to complete MCAD housing discrimination prevention training.

## Public Accommodations

- In this public accommodation discrimination case, Complainant alleged she was treated differently due to her race/color. Complainant went to a local store and while waiting to check out, she was eating food that she had bought at another store earlier in the day. Complainant alleged the store clerk accused her of stealing the food. Complainant attempted to explain that she bought this food at another store. A heated argument occurred between the Complainant and the store clerk. Complainant alleged the store clerk only acted this way because Complainant was Black. Respondent fired the store clerk for the clerk's inappropriate behavior. The case settled at mediation for \$5,000.
- In this public accommodation discrimination case, Complainant alleged that he and his party were treated differently at a restaurant due to his race. Complainant frequented the restaurant on more than one occasion. He alleged that on one occasion, a security guard came to Complainant's table and told his guests they had to lower their voices, even as other diners were speaking loudly. The guard then followed one of Complainant's party members into the restroom. Complainant alleged that on a second occasion about a week later, when Complainant asked about their order after waiting fifteen minutes for their food, a manager came to the table and advised the Complainant that they had been placed on a "Do Not Serve" list and were asked to leave the restaurant, forcing them to leave without having been served dinner. At mediation, the Complainant did not seek any monetary amount, but wanted all the Respondent's management level people to attend the MCAD's discrimination prevention training, which was agreed to and all have since attended.



*Image: MCAD staff following a training from the Mayor's Office of LGBTQIA2S+ Advancement on "LGBTQIA2S+ 101" in January 2025.*

# COMMUNICATIONS UNIT



*Image: Press Secretary, Director of Communications, & Legislative Liaison, Justine LaVoye (right), attends the State House News Event "Meet the Media" with the Communication Unit's first interns, Isabella Pawloski (left) and Ruofei Shang (center).*

The MCAD's Communications Unit is comprised of one staff member: the Press Secretary, Director of Communications, and Legislative Liaison. The unit plays a key role in maintaining transparent, effective communication with both internal and external audiences.

Externally, the unit manages public relations by handling media inquiries and issuing press releases to ensure the agency's activities and resources are clearly communicated to the public, while also monitoring media coverage and emerging issues. It develops public awareness campaigns and engages in community outreach by organizing events and utilizing digital platforms such as social media and the agency's website to keep the public informed. The Unit also oversees the creation of the MCAD Annual Report and other Commission publications.

Internally, the Communications Unit ensures staff remain informed about new initiatives,

events, and agency updates. This includes producing the monthly internal newsletter "Civil Writes," coordinating the annual agency-wide staff meeting, and crafting internal communication across departments. The Unit also supports agency leadership by preparing speeches, talking points, and legislative testimonies to ensure consistent, accurate messaging when addressing the public or engaging in policy or educational efforts.

In FY25, the Communications Unit expanded the MCAD's digital presence through consistent, strategic posting across its social media platforms, fostering stronger public engagement and awareness of the agency's mission and services. The Unit also welcomed its first summer communications interns, who supported social media strategy and contributed to a range of creative projects that highlighted the work of the Commission and its staff.

The year was marked by significant collaboration and visibility across legislative, media, and community initiatives. Working closely with the Legislative Affairs Committee, the Unit supported the refiling of "An Act Relative to Creating the Massachusetts Against Discrimination Fund" (H.3109 and S.2014) and coordinated the annual Legislative Briefing, providing legislators and stakeholders with key updates on the agency's work. The Unit also supported the Commission's participation in the state budget process, preparing materials and messaging for the MCAD's



**Discrimination based on gender identity, gender expression, sexual orientation, & trans status is illegal in Massachusetts.**



Learn how the MCAD enforces the law & protects your civil rights.  
[mass.gov/MCAD](http://mass.gov/MCAD)

*Image: (top) MCAD staff participating in its first Boston Pride for the People March in June 2025, (bottom) informational pamphlet distributed during march.*

budget hearing to ensure clarity and alignment in communication with policymakers.

Public engagement remained a central focus throughout the year. The Communications Unit coordinated the agency's partnership with Embrace Boston commemorating the 60th anniversary of the 1965 Freedom Rally & March, a historic moment to honor the Commonwealth's civil rights legacy and reaffirm MCAD's continued role in advancing equality. Participating in the commemoration was remarkable given that the MCAD's Commissioner in 1965, Ruth Batson, was a featured speaker at the original rally! The unit also organized the Commission's first-ever participation in the Boston Pride for the People Parade, marking a milestone in visibility and inclusion as staff joined thousands in celebration of the LGBTQIA2S+ community in Boston.

Media outreach continued to strengthen the agency's presence, with the Unit issuing press releases highlighting key developments, including staff promotions and Commission initiated complaints addressing housing discrimination. Additionally, internal engagement remained a priority, as demonstrated through initiatives like "Snack & Share" sessions with the MCAD Hearing Officers and Alternative Dispute Resolution Unit, events designed to deepen staff understanding of the agency's work and promote collaboration across units and teams.



Together, these efforts reflect a year of growth, connection, and creativity for the Communications Unit by strengthening MCAD's voice both within the agency and across the Commonwealth.



*Images: (top left) original pamphlet schedule for the 1965 Freedom Rally, displaying MCAD Commissioner Ruth Batson as a featured speaker; (bottom left) Executive Director Memmolo, Communications Director LaVoye, Training Director Caton, and Chairwoman George table for the MCAD at the 60th Anniversary of the 1965 Freedom Rally event on the Boston Common; (right) Executive Director Memmolo and Chairwoman George march in the Freedom Rally commemorating the march of 1965.*

# LEGAL DIVISION

The MCAD's Legal Division provides legal services and support to the Commission in furtherance of its mission to eradicate discrimination in Massachusetts. The Legal Division is comprised of the General Counsel, Deputy General Counsel, a Commission Counsel Supervisor and six Commission Counsel, the Clerk's Office, the Full Commission Law Clerk, and the Alternative Dispute Resolution Unit (ADR is detailed in its own section). The Legal Division oversees the Full Commission review process, provides draft decisions, and submits recommendations on post-probable cause motions to the Commissioners when requested. The Legal Division also provides legal and procedural advice concerning matters affecting the Commission, including ethical issues, personnel, investigations, public records requests, and proposed legislation.

The Clerk's Office within the Legal Division consists of the Clerk of the Commission, Deputy Clerk/Records Access Officer, Hearings Clerk, Conciliation Clerk, Appeals Clerk, and First Assistant Clerk. The Clerk's Office is responsible for overseeing the administration of Commission public hearings and Full Commission filings, assignment of motions to Hearing Commissioners and Hearing Officers, issuing Commission decisions and responding to public inquiries. In FY25, the Clerk's Office responded to 623 public records requests.

Commission Counsel enforce the Commonwealth's anti-discrimination laws through prosecution of complaints at public hearings and through litigation and appellate practice in Massachusetts courts. Commission Counsel also prosecute Commission-initiated complaints and participate in conciliation proceedings. Commission Counsel hear and review appeals from lack of probable cause (LOPC), lack of jurisdiction (LOJ) and review and authorization (R & A) dismissals and provide recommendations to Investigating Commissioners regarding their findings. Commission Counsel are also responsible for defending agency decisions when judicial review is sought in Superior Court and the Appeals Court pursuant to M.G.L. c. 30A, § 14(7). Commission Counsel defend challenges to the Commission's jurisdiction and procedures, and file enforcement actions to obtain compliance with the Commission's final orders.

In FY25, the General Counsel, Deputy General Counsel, Commission Counsel Supervisor, and other Legal Division staff dedicated extraordinary and significant time and effort to the agency-wide development of a new case management system, including the mapping of all claims under MCAD jurisdiction to ensure accuracy in the online filing of MCAD complaints once the new system is in use. These staff members worked tirelessly and side-by-side with the MCAD's vendor communicating MCAD regulatory requirements and other business rules to aid in system development, spending countless hours in development meetings to that end. The Legal Division was also proudly instrumental in reinstating the filing of Commission initiated complaints (CICs), and thanks to the efforts of the Commission Counsel Supervisor and the Chair of the Commission, FY25 saw the filing of three CICs, after almost seven years had passed without a CIC being filed. One of those housing CICs,



*Image: first CCMS Show & Tell session attended by all MCAD staff*

settled with significant relief in the public interest secured. The other two CICs remained pending at the close of FY25. The Legal Division also continued to maintain a certification process that ensures prosecutions are certified to public hearing or otherwise resolved within 15 months post-conciliation. Moving forward, the MCAD's new case management system will also automate that process as a result of the Legal Division's FY25 work on system development. The following report highlights the work in the Legal Division for FY25.

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## FY25 Cases Assigned to MCAD Commission Counsel

Commission Counsel prosecute cases at public hearings after a finding of probable cause is issued by an Investigating Commissioner. Commission Counsel proceed in the public interest to eradicate discriminatory practices by obtaining affirmative relief and victim-specific relief for complainants, particularly those who are not represented by private legal counsel (pro se complainants). Of the 187 cases with a probable cause determination in FY25, the Legal Division was assigned to prosecute 104 new cases filed by pro se complainants, which is 55.6% of all cases with probable cause findings. Additionally, Commission Counsel remained assigned to prosecute the active caseload of 74 cases that existed as of June 30, 2024.

## Noteworthy Settlements by Commission Counsel

During FY25, Commission Counsel resolved 73 discrimination cases through conciliation and negotiation, recovering \$1,070,499.00 in victim specific relief. In addition, the agency secured affirmative relief in the form of anti-discrimination training, reasonable accommodations, and policy reviews. The following is a description of some representative matters, which were resolved by settlement during FY25, classified by the type of alleged discrimination.

### Employment

- An educational consultant was subjected to a number of harassing comments which were associated with her race and color by one of her supervisors, including but not limited to the supervisor describing largely Black school systems negatively, and referring to certain urban areas as "chocolate cit[ies]." The consultant made multiple reports of these incidents to a higher-level manager who she believed had the authority to remedy the harassment. However, Respondents took no action to address the situation. Respondents agreed to resolve the matter for a payment of \$45,000. to the consultant. Respondents also agreed to attend an MCAD anti-discrimination training. [Middlesex County]
- A part-time counselor who worked with inmates in a correctional facility, alleged that she was subjected to discrimination based on her religious creed (Evangelical Christian) when Respondent denied her request for a religious accommodation in the form of an exemption to Respondent's vaccine mandate without engaging in an interactive dialogue and subsequently refusing to hire her for the position which she previously held prior to Respondent taking over the contract at the jail where she worked. Respondent agreed to resolve the matter for a payment to her of \$10,000. Respondent also agreed to attend an MCAD anti-discrimination training and to adopt a religious accommodation policy. [Bristol County]
- An employee who had initially been granted a medical exemption from her employer's COVID-19 vaccine mandate had that exemption revoked and was required to reapply. Despite ongoing communication from the employee, including documentation from three separate medical providers advising against vaccination due to her health conditions, the employer denied the exemption and placed her on a 90-day unpaid leave. It was only after the employee suffered a life-threatening vaccine reaction that the employer reconsidered her request. Even then, it took two additional months for the exemption to be reinstated. The matter settled with the employee receiving full back pay, restored paid time off, and full-service credit. She continues to work for the organization today. [Norfolk County]
- An employee with a disability alleged that her employer violated state anti-discrimination law by denying

her a reasonable accommodation following medical leave. She requested relief from certain non-essential duties, tasks the employer had previously excused for co-workers undergoing remedial training. The employer declined the request, citing concerns about staff morale and the potential for similar requests from other employees. The matter settled for \$17,500 for emotional distress. The employee remains in her position. As part of the resolution, the employer agreed to a private training conducted by the Commission, covering anti-discrimination law and best practices for handling accommodation requests. [Middlesex County]

- A teacher alleged that his contract was not renewed in violation of state disability and anti-retaliation laws. He had been hospitalized for a life-threatening condition and returned to work while still undergoing treatment. Upon his return, he received no negative feedback about his job performance. Although he was present for only about half of the school year, due to his medical condition, he was informed at the end of the term that his contract would not be renewed for “performance-related” reasons. The employer cited evaluation reports prepared the day before the termination decision. The matter was resolved with the employer paying the teacher \$60,000. [Norfolk County]
- A prospective employee alleged that an employer discriminated against her based on disability by refusing to grant her request for a reasonable accommodation. The prospective employee is deaf and utilizes American Sign Language to communicate. When she applied for a job with the employer, she was selected for an interview. The e-mail regarding the interview provided instructions on how to make accommodation requests. She followed those instructions and called Human Resources to request an accommodation, via ASL interpreter services on her phone which introduces itself as such, only to be told the boss was busy and would get back to her. When the prospective employee did not receive a call back, she again followed up with the employer, utilizing ASL interpreter services, and was told that she would receive an e-mail with interview questions that she could respond to in writing. However, she did not receive any interview questions by e-mail or any further communication. The employer admitted that it changed her application to inactive, allegedly due to human error, despite indicating on her file that she was disabled and needed an accommodation, and despite her follow up calls regarding an interview. After conciliation, the employer agreed that its executive team lead for human resources and the store director would attend employment discrimination training, and agreed to pay the prospective employee \$13,000. [Hampden County]
- An employee worked as a Staffing Coordinator at a short-term rehabilitation and a long-term care facility where she served as the primary contact for all facility employees’ scheduling and timekeeping needs. The employee’s work performance was exemplary. Respondent abruptly claimed the employee quit after she requested a disability-related leave of absence. The parties were able to resolve the matter at conciliation. In addition to \$85,000 in compensation to the employee for lost wages and emotional distress, the Respondent agreed to a training regimen reviewed and approved by MCAD’s Director of Training. [Worcester County]
- Complainant suffers from a visual impairment and alleges that while employed by Respondent she was subjected to discrimination in the workplace due to multiple instances of sexual harassment by a colleague that the Respondent failed to address. Conciliation efforts resulted in an agreement wherein Respondent agreed to resolve the case for \$20,500 and send all employees that have supervisory responsibility to anti-discrimination training and to submit for review and edits the current anti-discrimination policy. [Essex County]
- Complainant practices the Muslim faith and is an active member of his religious community. The Respondent, the Complainant’s employer, allegedly refused to provide Complainant with a reasonable accommodation to allow Complainant to participate in religious events. Respondent, during conciliation, agreed to resolve the matter for a \$25,000 settlement payment to Complainant, to tender a neutral reference on the Complainant’s behalf if requested, review of all anti-discrimination policies, and to have all managers of any employees to anti-discrimination training. [Middlesex County]
- Complainant is a female who is over the age of 40 and identifies as a lesbian and was employed in the

maintenance department at Respondent. Complainant alleged that she was subjected to different treatment than similarly situated employees that were not in Complainant's protected classes specifically given her manager's allotment of overtime opportunities, specific job tasks, and overtime assignments. Ultimately, given this pattern of conduct, Complainant was selected for layoffs during the COVID-19 pandemic. The matter was successfully resolved at conciliation with a settlement payment of \$40,000 to the Complainant and Respondent's commitment to provide the Complainant a neutral reference, and to engage with training and policy review to increase awareness of discriminatory behavior in the workplace. [Middlesex County]

- Complainant identifies his race as Black and has been diagnosed with multiple sclerosis. Following the Complainant's diagnosis of multiple sclerosis, the Complainant alleged that his performance at Respondent was highly scrutinized, he was subjected to different treatment than his similarly situated peers and ultimately terminated within two months of his diagnosis. The matter was successfully resolved with a payment of \$135,000 to the Complainant and Respondent's commitment to provide the Complainant with a neutral job reference, and to engage with training and policy review to increase awareness of discriminatory behavior in the workplace. [Suffolk County].

## **Housing**

- A mother and her adult daughter were tenants at Respondent. The tenants alleged that Respondents subjected them to discrimination based on disability by unlawfully charging them a pet fee to live with their assistance animal (dog) for nine months. The tenants provided Respondents with a letter from the daughter's therapist, confirming her need for the accommodation. However, Respondents responded by rudely demanding that the assistance animal be removed, threatening their tenancy, and illegally charging the tenants an additional \$100 per month in "pet rent." Respondents agreed to resolve the matter for a payment of \$6,000 to the tenants. Respondents also agreed to attend an MCAD anti-discrimination training and to adopt reasonable accommodation and anti-discrimination policies in event that they resume renting properties in the Commonwealth. [Hampden County]

- A resident alleged that a Housing Authority and its Executive Director discriminated against her based on race/color and disability. The resident has mixed-race children, and the children have disabilities relating to their mental health. After moving into the Housing Authority's property, resident and her children were subjected to physical and verbal harassment from neighbors relating to the race of her children. When the resident informed the Housing Authority, no action was taken, despite the police being called multiple times. Due to the behavior of the residents' neighbors and the effect it was having on her children's mental health, she requested that the Housing Authority transfer her to a different property. The resident provided medical documentation in support of how a transfer would be beneficial to her kids' mental health and well-being. In addition to failing to address the harassment resident and her children were subjected to by their neighbors, the Housing Authority and its Executive Director failed to acknowledge or respond to the resident's multiple requests for a reasonable accommodation. After conciliation, the Housing Authority paid the resident \$5,500, agreed to training for the Executive Director and one other employee, and agreed to provide the Commission with its anti-discrimination policy for review. Additionally, the Housing Authority agreed to a stipulation in Housing Court where it released the resident of any and all obligations to pay rent arrears, removed the default judgment entered against her, and asked the Court to dismiss the matter. [Norfolk County]

- A resident alleged that her landlord discriminated against her on the basis of national origin. The resident rented an apartment with her partner who was of the same national origin as the landlord. However, the landlord did not add the resident to the lease under the excuse that there was nowhere on the lease for the resident to sign. Given that it was the beginning of the COVID-19 pandemic and the resident was pregnant, she and her partner decided to continue with the rental of the apartment despite the lease not having her

name as a co-tenant. Later in time, the resident and her partner ended their relationship and he moved out. The resident informed the landlord of this change and asked to renew the lease in her own name. The landlord refused to do so, and continued communicating with the ex-partner who no longer lived there. The resident asked again to be provided with a lease for renewal, but it was not provided. The landlord stated that she would only renew the lease for the ex-partner. The landlord told the resident that her house was only for people of her same national origin and that she did not want foreigners renting her house. Ultimately, the resident was evicted. After conciliation, the landlord agreed to pay the resident \$15,000, attend anti-discrimination in housing training, to amend her rental application to contain no questions regarding racial or ethnic background or spoken/pREFERRED language, to obtain a realtor to show apartments to prospective tenants and to not ask the realtor about those tenants' racial or ethnic backgrounds or spoken/pREFERRED languages prior to making decisions regarding tenancy. [Worcester County]

- A resident is disabled with posttraumatic stress disorder and major chronic depression. These disabling conditions cause her panic attacks which she manages with an assistance animal, which in this case is a cat. The resident requested a reasonable accommodation to allow her assistance animal to remain with her at the apartment, and gave Respondent supporting medical documentation. Respondent's immediate response was to tell the resident that Respondent does not allow pets, and that she should find a new apartment and move. Two days later, Respondent shifted course and instead left a new lease at the resident's front door. Respondent added onerous and discriminatory terms, including an increase in rent, and an explicit prohibition against "pets," which included "existing pets," that "must be removed immediately." Respondent also added that the apartment would be subject would be to "spot checks." Respondent advised the resident that she would be evicted, if she did not sign the new lease.

The parties were able to resolve the matter at conciliation. Respondent agreed to pay the resident \$9,500 to compensate her for alleged emotional distress. Respondent also agreed to training by the MCAD, to develop a reasonable accommodation policy, and to make a \$500 donation to a disability related non-profit. [Worcester County]

- A resident is a person with a disability. She is diagnosed with a generalized anxiety disorder. She has an assistance animal (dog) which helps her manage her symptoms of anxiety and to enhance her ability to function and live independently. Respondents manage a multi-unit apartment building. In their standard lease, Respondents prohibited pets without their written consent and charged tenants a \$60 pet fee if approved. The resident asked for a reasonable accommodation to have her assistance animal live with her. She filled out Respondents' reasonable accommodation form, gave them a letter from her licensed clinical social worker confirming she is disabled, and that she has disability related needs which are effectively accommodated by an assistance animal. Respondents failed to respond to the accommodation request. Because of Respondents' inaction, the resident signed the lease and paid the \$60 monthly "pet fee." The resident repeated her request twice, each time attached the letter from her social worker, but yet both times Respondents balked at the request. In response to her second repeated request, Respondents replied that, "We do not accept letters from the doctor. We have a specific 'certification' that has to be completed by the doctor and returned to us, that is our company policy." Respondents refused to grant the accommodation and continued to charge the resident a total of \$780 in pet fees. The parties were able to resolve the matter at conciliation. Respondents reimbursed the resident the \$780 for the improperly charged pet fees, and an additional \$5,000 in compensation for emotional distress. Respondents also agreed to a regimen of training and a review of its policies. [Worcester County]

- A complainant alleged racial and familial status discrimination regarding the renewal of her lease at an apartment complex which her family had been residing at for a few years. Complainant stated that after having a child the Respondent improperly applied occupancy standards to evict Complainant and her family from their

unit. After a successful conciliation, Respondent agreed to submit to the MCAD their occupancy standards and current anti-discrimination policies for review and comment, to have their management team attend anti-discrimination training, and to resolve the matter with a payment of \$6,000 to the Complainant. [Middlesex County]

### Public Accommodations

- A parent seeking childcare services, toured Respondent's facilities. During the tour, the parent voluntarily disclosed that their child has certain disabilities that may require additional support. Respondent provided the parent with application paperwork after the tour. However, Respondent informed the parent prior to submission of the paperwork that Respondent could not accommodate the child's needs and would not offer a spot to the child. Respondent agreed to provide \$2,000 in compensation for emotional distress and to obtain MCAD approved anti-discrimination training for Respondent's Director and Assistant Director. [Essex County]
- Complainant, a black woman with disabilities, stopped at Respondent gas station to put air in her tires. Complainant asked Respondent's employee for help. The employee declined to help and was later seen assisting a white male individual without apparent disabilities by putting air in his tires. The parties were able to resolve the matter at conciliation. Complainant obtained \$2,000 in compensation for emotional distress. Respondent drafted an accommodation policy and agreed to obtain MCAD approved anti-discrimination training for three managers. [Norfolk County]
- Complainant suffered a traumatic brain injury which caused her to become legally blind and impacted her coordination. Complainant now requires the use of an assistance animal (dog). Complainant attempted to utilize Respondent's services, but she was instructed that her assistance animal could not accompany her through Respondent's facilities. The case was successfully resolved with a settlement payment of \$4,000 to the Complainant and the Respondent additionally committed to sending all front desk staff and managers to training, submitted its reasonable accommodation policy to the MCAD for review and comment, posted anti-discrimination language noting Respondent's commitment to providing reasonable accommodations, and extended an apology to the Complainant. [Essex County]



*Image: MCAD staff members following a Legislative Briefing hosted in April 2025 that informed members of the legislature on two re-filed bills in the 2025-2026 session that propose to create an MCAD Fund, as well as the budgetary needs for the agency in FY26.*

## Commission-Initiated Complaints

- On August 30, 2024, the MCAD initiated a complaint alleging two Respondents of unlawful housing discrimination in violation of M.G.L. c. 151B, § 4(4A), M.G.L. c. 151B, § 4(5), M.G.L. c. 151B, § 4(6), M.G.L. c. 151B, § 4(7)(a) and M.G.L. c. 151B, § 4(7)(b). This complaint was based upon data collected by the Suffolk University Law School's Housing Discrimination Testing Program which conducted multiple tests on properties listed by the Respondents. The Commission alleged that the Respondents engaged in unlawful housing discrimination by denying reasonable accommodations to potential tenants with disabilities who required the use of an assistance animal. An investigative conference was held in October of 2024. In negotiations following the investigative conference, Respondents agreed to enter into a Final Order by Consent. The terms of the final order include injunctive relief, requiring the Respondents to comply with state and federal fair housing laws and refrain from discriminatory practices in the future. Additionally, as affirmative relief, the Respondents must complete MCAD's Housing Discrimination 101 training course and make it available to all agents and brokers affiliated with the Respondent real estate brokerage firm. They must also adopt a strengthened anti-discrimination policy within 60 days of signing the order. Furthermore, they are required to make an \$8,000 donation to a nonprofit organization dedicated to supporting persons with disabilities.
- On February 7, 2025, the MCAD initiated a complaint alleging two Respondents of unlawful housing discrimination in violation of M.G.L. c. 151B, § 4(10) and M.G.L. c. 151B, § 4(13)(c). This complaint was based upon data collected by the Suffolk University Law School's Housing Discrimination Testing Program which conducted multiple tests on properties listed by the Respondents between 2023 and 2024. The testing data revealed patterns of discriminatory treatment against applicants using housing vouchers, including being denied property tours, receiving misleading information, and being subjected to different application processes. After an investigative conference, that was held on March 25, 2025, Respondents agreed to enter into a Final Order by Consent. The terms required Respondents to complete the MCAD's fair housing training, strengthen their anti-discrimination policies and submit those policies to MCAD for approval. Respondents must provide copies of these policies to all agents and brokers affiliated with Respondents' Wellesley office and maintain compliance records for seven years. Respondents will also pay \$10,000 to Suffolk University to offset their testing costs.



*Images: More photos from the MCAD's April 2025 Legislative Briefing (as seen on the previous page). [left] Chairwoman George and Executive Director Memmolo speak to MA Senator Nick Collins about the legislation. [middle] Chairwoman George speaks to legislative staff members. [right] Executive Director Memmolo poses with Representative Carlos Gonzalez's staff members who helped plan the briefing at the State House.*

## FY25 Massachusetts Court Activity

Commission Counsel defend the Commission's decisions and procedures in the Massachusetts Superior Court and the Appeals Court. These cases include M.G.L. c. 30A administrative appeals and challenges to the Commission's investigative and enforcement authority. During FY25, Commission Counsel were assigned eight new Superior Court cases to defend. Commission Counsel remained responsible during FY25 for nine cases, which were pending as of June 30, 2024. The following report describes some of the activity in cases against the Commission being defended in the Massachusetts courts.

## COURT CASES

**The Parish Café and Factotum Tap Room, Inc. v. MCAD & Jeffrey May**, Suffolk County Superior Court Civil Action No. 2384CV01663 / Appeals Court No. 2025-P-0054. In 2016, Jeffrey May filed a complaint with the Commission alleging that the Parish Café and Bar, a place of public accommodation, discriminated against him based on his sexual orientation in violation of M.G.L. c. 272, § 98. The Parish Café operated two locations in Boston. Following a two-day public hearing, an MCAD Hearing Officer found in favor of May and awarded emotional distress damages, along with mandatory anti-discrimination training for staff at both locations. Shortly after the decision issued, the Parish Café location where the incident occurred closed its doors. On appeal to the Full Commission, the Respondent challenged, among other findings, the Hearing Officer's conclusion that both locations were jointly and severally liable. The Full Commission affirmed, noting that throughout the MCAD process, the Respondent had consistently presented itself as a single business with two locations, rather than distinct legal entities. In July 2023, the Parish Café, et al., filed for judicial review in Suffolk Superior Court pursuant to M.G.L. c. 151B, § 6 and M.G.L. c. 30A, § 14. In October 2024, the Superior Court upheld the Commission's decision on liability. The matter was appealed to the Massachusetts Appeals Court. In June 2025, the case was dismissed pursuant to a settlement agreement.

**Massachusetts Commission Against Discrimination v. Sushma Chopra aka Susan Chopra**, Suffolk Superior Court CA No. 2484CV03231. In December 2023, the Commission issued a final order finding a Massachusetts real estate broker liable for housing discrimination in violation of M.G.L. c. 151B, § 4(11). The decision, issued after the broker failed to appear at a public hearing, included a \$10,000 civil penalty based on findings of a "blatant disregard for Massachusetts law. . ." When efforts to collect the penalty were unsuccessful, the Commission filed an enforcement action pursuant to M.G.L. c. 151B, §§ 6 and 8. Dispositive motions have been filed, and the matter is currently pending.

**Valdir Oliveira v. Massachusetts Commission Against Discrimination**, Middlesex Superior Court CA No. 2581CV00890. In February 2022, Oliveira filed a complaint with the Commission alleging employment discrimination in violation of M.G.L. c. 151B, § 4(1). Following an investigation, the Commission issued a finding of lack of probable cause in November 2022 and dismissed the complaint pursuant to G.L. c. 151B, § 5 and 804 CMR 1.08(1)(f)(2). Oliveira subsequently filed an action in Superior Court seeking declaratory relief under M.G.L. c. 231A, challenging the way the Commission exercised its discretion during the investigation. Dispositive motions have been filed, and the matter is currently pending.

**Jordan L. Michelson v. Massachusetts Commission Against Discrimination**, Suffolk Superior Court, 2484CV01794. This action arises from the Massachusetts public records statute. The Petitioner, Jordan L. Michelson, contends the Massachusetts Commission Against Discrimination, failed to comply with the public records statute, G.L. c. 66, § 10A, when it withheld three email communications between the Commission's staff and its legal counsel. Petitioner sought a related declaratory judgment. MCAD moved to dismiss the complaint for failure to state a claim under Mass.R.Civ.P. 12(b)(6) because it properly withheld these records as they fall under the attorney-client privilege, which is a legitimate reason for withholding them. Petitioner also filed a Motion seeking to "compel MCAD to provide the Court with advance copies of the three at-issue emails in camera or, at the very least, to bring hard copies to the Hearing to be held on Defendant's Motion to Dismiss, so that the Court has the option of conducting in camera review." MCAD opposed the Motion because an in camera inspection is unnecessary and unwarranted. The Court denied this Motion. The parties appeared for a Rule 12 motion hearing on May 27, 2025. The Judge heard argument and took the matter

under advisement. A decision is pending.

**Martin Green, et al. v. Massachusetts Commission Against Discrimination, et al.**, Worcester County Superior Court, 2485CV00838. On August 13, 2024, Martin Green and Marty Green Properties, LLC ("Green") filed an action M.G.L. c. 30A § 14 and M.G.L. c. 151B, § 6 seeking judicial review of a Full Commission decision. The Commission had found Green liable for disability discrimination, denial of a reasonable accommodation, and retaliation in housing. The Full Commission ordered Green to compensate the Complainants, pay civil penalties, and attorney's fees and costs related to efforts of Commission Counsel.

On October 18, 2024, the Commission filed the Administrative Record. The Administrative Record consisted of records from the certification of the matter to public hearing through to the Full Commission decision. Green, however, served a Motion seeking to compel the MCAD to supplement the administrative record with extraneous records from the Commission's investigation and the parties' discovery, none of which were before the Hearing Officer. Green also asked that should the court deny the motion to supplement the record, then it be afforded additional time to serve their Motion for Judgment on the Pleadings, as required. MCAD opposed this Motion. Green also served MCAD with a Mass.R.Civ.P. 12(b)(6) motion seeking to dismiss and "vacate" the Commission's investigation findings on probable cause, and the Full Commission decision on constitutional grounds. Green contended that MCAD deprived them of their 7th Amendment right to a jury trial, relying on Sec. & Exch. Comm'n v. Jarkesy, 144 S. Ct. 2117 (2024). MCAD opposed the Motion.

The Court heard argument on both Motions on April 1, 2025. By Order dated June 26, the Court denied Green's Motion to Vacate, denied Green's Motion to Compel MCAD to supplement the administrative record, but allowed Green until July 30, 2025, to serve their Motion for Judgment on the Pleadings.

**Stash's Pizza v. Massachusetts Commission Against Discrimination, et al.**, Suffolk County Superior Court, 2584CV00211. On January 24, 2025, Stash's Pizza filed an action under M.G.L. c. 30A § 14 and M.G.L. c. 151B, § 6 seeking judicial review of a Full Commission decision finding it liable for race discrimination and retaliation in a place of public accommodation. The Full Commission ordered Stash's Pizza to compensate the complainant and pay attorney's fees and costs to private counsel. Prior to service of the summons and complaint, and before MCAD filed the Administrative Record with the Court, legal counsel for Thomas served a Mass.R.Civ.P. 12(b)(6) Motion to Dismiss. Thomas' counsel raised procedural and substantive arguments. Service of the complaint on MCAD and Ms. Thomas occurred on March 12, 2025. Accordingly, consistent with Superior Court Standing Order 1-96, MCAD filed the Administrative Record with the Court on May 14, 2025, which was later supplemented by May 29, 2025. The Court scheduled a Motion hearing on May 29 to consider Thomas' Motion to Dismiss, but counsel for Stash's Pizza did not appear. The Court instead held a status conference. On June 30, counsel for Stash's Pizza served and filed a Motion for Judgment on the Pleadings. On July 2, the Court denied the motion without prejudice to its refiling and service because it did not comply with Superior Court Rule 9A.

**Gwendolyn Property Management, LLC v. Jasmine Blaize**, Worcester District Court, 2467SC000339-JT On February 25, 2025, MCAD Docket No. 24WPR01980 was assigned to Commission Counsel for a conciliation conference, scheduled for June 10, 2025. The Complainant alleged Respondent retaliated against her when he brought an action in District Court to collect approximately \$2,000 in attorney's fees. Respondent thereafter secured a Judgment by a District Court Magistrate against Complainant. After attempts to convince Respondent to vacate the Judgment failed, on April 10, 2025, MCAD moved to intervene in the matter which

the court allowed after hearing argument on the Motion on April 25, 2025. As an Intervenor, MCAD filed a Motion to Vacate the Judgment. Argument on the motion was heard in District Court on May 16, 2025. By Order dated May 20, 2025, the District Court allowed MCAD's Motion to Vacate the Judgment. The parties were able to resolve the retaliation claim at the MCAD conciliation conference.

**Suomala v. Massachusetts Commission Against Discrimination, et al.**, Suffolk County Superior Court Civil Action No. 2384CV02454. Following a full evidentiary hearing, an MCAD Hearing Officer determined Plaintiff's employer did not retaliate against Suomala in violation of M.G.L. c. 151B, when it terminated her employment subsequent to her raising to management her good faith belief that one of her direct reports may have been subjected to sexual harassment. On January of 2024, Plaintiff appealed the MCAD Full Commission decision in favor of her former employer to the superior court in accordance with M.G.L. c. 30A. Plaintiff argued on appeal that the Hearing Officer's findings were arbitrary, capricious, and based on a substantial error of law. The Commission filed an Answer and Counterclaim as well as the agency Administrative Record with the Court. Plaintiff filed a Motion for Judgment on the Pleadings, and the Commission filed a Cross-Motion for Judgment on the Pleadings.

**Massachusetts Commission Against Discrimination v. Manuel DeAmaral**, Suffolk County Superior Court Civil Action No. 2584CV01811. Following a full evidentiary hearing, an MCAD Hearing Officer determined a complainant, who is deaf, was discriminated against based on disability in violation of M.G.L. c. 151B, when her former landlord denied her requests to live with an assistance animal (dog) that alerted her to sounds in her unit including knocking on the door, doorbells, and fire alarms. The MCAD Hearing Officer awarded the complainant \$40,000 in damages, and ordered that her former landlord pay a civil penalty to the Commonwealth in the amount of \$7,500 and that the former landlord attend MCAD offered anti-discrimination training within 75 days of the decision; and a Massachusetts Commission for the Deaf and Hard of Hearing ("MCDHH") "Deafness and Hearing Loss" training within 90 days of the decision. The former landlord did not appeal the MCAD Hearing Officer's decision and has not complied with the Commission's orders. Accordingly, the Commission filed an action in Suffolk Superior Court seeking enforcement of the Commission's decision.



*Image: MCAD Commissioner Rodriguez Colon (center) poses with U.S. Senator Edward Markey and her husband following the ALX100 2024 Award Ceremony in September 2024, for which she was honored in.*

# HEARINGS UNIT

The MCAD's Hearings Unit is comprised of two Hearing Officers and the MCAD Commissioners. The Hearings Unit conducts public hearings and issues decisions pursuant to Section 5 of M.G.L. c. 151B, M.G.L. c. 30A and 804 CMR 1.12. In addition, the Hearings Unit conducts status, motion and pre-hearing conferences, and rules on motions and issues orders. In fiscal year 2025, the Hearings Unit conducted five public hearings, issued seven decisions after public hearing and issued four decisions on petitions for attorney's fees and costs.

## FY25 Hearings Decisions

### MCAD and Ramirez v. Manuel J. DeAmaral a/k/a Manuel J. Amaral and 39 Irving Street Realty Trust, 46

MDLR 47 (2024), Hearing Officer Jason Barshak

Ramirez filed a housing discrimination complaint alleging that her landlord, DeAmaral, and the 39 Irving Street Realty Trust discriminated against her based on her disability (deaf or hard of hearing) by refusing to provide a reasonable accommodation. Ramirez told DeAmaral about her hearing disability before moving into the subject apartment. During her tenancy, Ramirez requested that DeAmaral permit her to have her dog, an assistance animal, reside full-time in her apartment despite the no-pets policy in the lease.

Permitting Ramirez to have a full-time assistance animal in her apartment was reasonably necessary to afford her an equal opportunity to use and enjoy the apartment. She felt unsafe living in the apartment without her dog to alert her to noises, because she feared she would not hear auditory warnings or sounds indicating others were nearby. While the record established the benefits of having the assistance animal live in the apartment, there was no evidence that permitting the dog to live there would have imposed cost or burden on Respondents.

Despite having four opportunities, DeAmaral never gave Ramirez permission for the dog to live full-time in the apartment without a condition attached. His proposal that the dog remain in the apartment only at night was not a reasonable accommodation because that would have been an ineffective solution. His proposal that the dog remain in the apartment full-time in exchange for increased rental payments violated fair housing laws. DeAmaral failed to meaningfully engage in an interactive dialogue regarding Ramirez's request. In one meeting, DeAmaral appeared frustrated, made "weird faces" at Ramirez, said Ramirez was mumbling and refused to review her supporting paperwork. In another meeting, he told Ramirez and her mother that Ramirez was continuing to bother him about the issue and again refused to read the paperwork. DeAmaral failed to provide a reasonable accommodation in violation of M.G.L. c. 151B, § 4(6) and § 4(7A)(2) and was personally liable.

The Trust was a nominee trust. The Hearing Officer dismissed the Complaint against the Trust because a trust that is not a business trust is not a legal entity that can be sued directly. In certain circumstances, a nominee trust's assets may be reached by a suit naming the trustees in their representative capacities, and the beneficiaries of a nominee trust may, themselves, be held liable. The Hearing Officer analyzed whether to add as respondents, DeAmaral, in his representative capacity as trustee of the Trust; his wife, in her representative capacity as trustee of the Trust; and/or the Trust's beneficiaries. The Hearing Officer declined to add parties.

The Hearing Officer awarded Ramirez \$40,000 for emotional distress caused by the refusal to allow her assistance animal to live full-time in the apartment and ordered DeAmaral to immediately cease and desist from failing to provide reasonable accommodations to tenants. The Hearing Officer imposed a civil penalty of

\$7,500 against DeAmaral, ordered him to attend individualized training on disability law provided by the MCAD and to contact the Massachusetts Commission for the Deaf and Hard of Hearing and to participate in their Deafness and Hearing Loss training.

**MCAD and DaSilva v. United Fisherman Club, Inc.**, 46 MDLR 55 (2024), Hearing Commissioner Sunila Thomas George

DaSilva filed a complaint against her former employer, alleging that she was subjected to a sexually hostile work environment, quid pro quo sexual harassment, and was terminated in retaliation for refusing her manager's sexual advances. The Hearing Commissioner addressed the timeliness of the Complaint. Generally, only those incidents that occur within 300 days of the filing of the Complaint can be considered. However, if the continuing violation doctrine applies, otherwise untimely acts can also be considered. After determining that such doctrine applied, the Hearing Commissioner then addressed whether the manager's remarks created a sexually hostile work environment. The manager's remarks were sexual in nature, offensive to DaSilva, and unwelcome. The Hearing Commissioner noted that although the MCAD looks at whether conduct was severe or pervasive as a measure of assessing whether it created an intimidating, hostile, humiliating, or sexually offensive work environment, the focus is on whether, given the totality of all relevant circumstances, the conduct meets the legal definition of sexual harassment. The manager's comments had the effect of unreasonably interfering with DaSilva's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. The comments were a pattern of blunt and crude expressions of the manager's sexual desire for his subordinate that would make it more difficult for a reasonable person to perform their work and undermine a reasonable employee's sense of well-being in the workplace. DaSilva established a sexually hostile work environment. Respondent was liable because an employer is strictly liable under M.G.L. c. 151B for harassing acts by its manager.

The Hearing Commissioner dismissed the quid pro quo sexual harassment claim because there was no evidence DaSilva's submission to, or rejection of, the sexual advances was made either explicitly or implicitly a term or condition of her employment or as a basis for employment decisions. As for DaSilva's claim that Respondent terminated her employment in retaliation for her refusal of the manager's sexual advances, the Hearing Commissioner dismissed that claim after finding that DaSilva quit and that a finding of constructive discharge was not warranted.

The Hearing Commissioner awarded DaSilva \$25,000 in emotional distress damages, ordered Respondent to immediately cease and desist from sexual harassment in employment and ordered Respondent's officers and managers attend a training on sexual harassment provided by the MCAD. Based on her conclusion that DaSilva quit and was not constructively discharged, the Hearing Commissioner declined to award lost wages

**MCAD and Andy Nom v. Acton Auto Body, Sonia Trinh, Jose Mourato**, 46 MDLR 61 (2024), Hearing Officer Simone R. Liebman

Nom filed a complaint against his employer, Acton Auto Body, and its co-owners, Sonia Trinh and Jose Mourato, collectively the Respondents, charging them with harassment based on national origin and race, retaliation and seeking to hold Trinh and Mourato individually liable. Nom alleged that his co-worker threatened him and called him a highly offensive slur based on his national origin and race. When Nom put Acton Auto Body on notice of this incident, he was suspended without pay, along with the co-worker who threatened him. Acton Auto Body then transferred Nom to another autobody shop owned by the Respondents, which required Nom to commute further from his home.

The incident involving the co-worker who threatened and insulted Nom occurred more than 300 days prior to the date that Nom filed a Complaint and thus was “untimely” unless there was a continuing violation sufficient to revive the untimely claim. The Hearing Officer concluded that the timely allegations of retaliatory suspension and transfer did not anchor the untimely acts of harassment, as they were not sufficiently related, and dismissed the harassment claims as untimely.

As for Nom’s retaliation claims, the Hearing Officer found that Nom had a reasonable and good faith belief that his employer was engaged in wrongful discrimination and that his complaint to his employer was a reasonable response meant to protest or oppose this discrimination (“protected conduct”). The Hearing Officer then analyzed whether the suspension and/or transfer were adverse actions and whether they were a response to the protected conduct (“causation”).

The Hearing Officer found that the suspension, which occurred the same day that Nom complained to Acton Auto Body, was an adverse action. She noted the loss of pay - even three days’ pay - materially disadvantaged Nom and that removing him from the workplace immediately after he asserted his civil rights would reasonably be experienced as punitive in nature and would dissuade an employee from coming forward with a complaint of discrimination. Regarding Nom’s transfer to a different auto body shop, the Hearing Officer noted that even where there is no resulting loss of compensation, a transfer may be actionable as retaliatory where the new position is less desirable. In this case, the transfer occurred immediately after Nom reported the harassing incident, increased his commuting costs, and would dissuade a reasonable employee in Nom’s circumstances from coming forward with a complaint of discrimination. As a result, both the unpaid suspension and transfer constituted adverse actions.

The Hearing Officer analyzed causation, specifically, whether Acton Auto Body suspended and/or transferred Nom because of his protected conduct. After reviewing M.G.L. c. 151B, § 4(4) and retaliation cases brought under M.G.L. c. 151B, Title VII and related statutes, the Hearing Officer concluded that if an employee can establish that an employer took adverse action because of the employee’s protected conduct, causation is established, and there is no need to show a distinct intent to punish or rid a workplace of someone who engages in protected conduct. Acton Auto Body argued that it suspended both the alleged harasser and Nom to cool things down at the shop. The Hearing Officer stated that this goal could have been achieved by suspending the harasser while retaining Nom in place, and that sending Nom home without compensation was a direct result of his protected conduct, proving causation. In response to Acton Auto Body’s argument that it transferred Nom to separate him from his alleged harasser, the Hearing Officer noted that Acton Auto Body had alternatives to transferring him including: (1) putting the alleged harasser on a paid or unpaid leave until it satisfied itself that it had created a safe work environment for Nom; and (2) engaging Nom in a discussion designed to identify steps the shop could take to keep Nom safe from any future harassment and concluded that the reason for the transfer was Nom’s complaint about his co-worker’s harassment, thus establishing causation.

The Hearing Officer dismissed the retaliatory termination claim based on her findings that Nom quit voluntarily and was not terminated. In addition, the Hearing Officer concluded that Trinh and Mourato did not act with deliberate disregard for Nom’s rights and dismissed claims that they were individually liable for retaliation.

The Hearing Officer ordered Acton Auto Body to compensate Nom for the three days he was suspended

without pay and awarded \$7,500 in emotional distress damages resulting from the retaliatory suspension and transfer. In addition, Acton Auto Body was ordered to cease and desist from retaliating against its employees and to conduct training on retaliation for the current owners and employees.

**MCAD and Ferguson v. D House Project LLC, and Graham**, 47 MDLR 7 (2025), Hearing Officer Jason Barshak Ferguson's claim was against her landlord (Graham) and the owner of the property (D House Project LLC) in which Ferguson had rented a room. Ferguson alleged she had been subjected to sexual harassment, disparate treatment on the basis of sex, retaliation, interference with the right to housing free from sexual harassment and aiding and abetting discrimination.

As to the sexual harassment claim, Ferguson was required to prove that she was subjected to unsolicited conduct of a sexual nature, and that the conduct would make the tenancy significantly less desirable to a reasonable person in her position. The Hearing Officer found that Graham repeatedly subjected Ferguson to conduct of a sexual nature, that his behavior was unsolicited, and that a reasonable tenant in Ferguson's position would have found that his behavior made the tenancy significantly less desirable. Accordingly, the Hearing Officer determined that Graham was liable for sexual harassment.

As to the disparate treatment sex-based claim, by proving Graham sexually harassed her during her tenancy, Ferguson also proved Graham discriminated against her on the basis of sex in the terms or conditions of her accommodation.

The Hearing Officer concluded Graham took adverse action against Ferguson in response to her protected activity. In response to a reasonable and good faith belief that Graham was sexually harassing her, Ferguson engaged in reasonable acts meant to protest or oppose the harassment including obtaining a harassment prevention order against Graham. On the same day Ferguson told Graham about the harassment prevention order, Graham told Ferguson, "Now you're going to see who exactly I am." Graham told another occupant, "This bitch is trying to send me to jail and ruin my life, so I want her out of my house." At Graham's suggestion, this occupant obtained a restraining order against Ferguson, which resulted in Ferguson being required to leave the property. The Hearing Officer found that these comments and the brief period between Graham's knowledge of Ferguson's harassment prevention order and the adverse action established causation, resulting in Graham's liability for violation of M.G.L. c. 151B, § 4(4).

Housing free from sexual harassment is a right granted and protected by Chapter 151B. Graham's continued sexual advances despite Ferguson's rebuffs, and his orchestration of her forced departure from the property in response to learning about the harassment prevention order against him, demonstrated his deliberate disregard of her right to housing free from sexual harassment and warranted the inference that he intended to interfere with Ferguson's right to housing free from sexual harassment. As a result, the Hearing Officer found Graham liable for violating M.G.L. c. 151B, § 4(4A).

As the owner of the property, D House Project LLC was liable to Ferguson for all the above violations because as a property owner, it could not delegate its duty to comply with fair housing laws and its obligation to obey Chapter 151B extended beyond its own actions to those to whom it entrusted the property's management.

The Hearing Officer dismissed the aiding and abetting claim under M.G.L. c. 151B, § 4(5).

The Hearing Officer awarded Ferguson \$60,000 for the prolonged and pervasive harmful impact on her emotional and mental health caused by Graham's unlawful actions, issued a civil penalty of \$8,000 against Graham, ordered Respondents to immediately cease and desist from sexual harassment, sexual discrimination, and retaliation in housing and to attend a training conducted by the Commission on sexual harassment, sexual discrimination, and retaliation in housing.

**MCAD and Medina-Santiago v. Chu Yi Li a/k/a Li Chu Yi and Michael Cheng a/k/a Tai A. Cheng**, 47 MDLR 13 (2025), Hearing Commissioner Neldy Jean Francois

Complainant Medina-Santiago ("Medina") filed a Complaint alleging discrimination in housing against Respondent property manager Cheng and Respondent owner Li of the property where Medina resided.

The Hearing Commissioner first analyzed whether Medina was denied a reasonable accommodation for his disability. To prevail on that claim, Medina had to prove the following elements: he was disabled; Cheng was aware of the disability or could have reasonably been aware of it; the accommodation sought was reasonably necessary to afford Medina an equal opportunity to use and enjoy the property; and Cheng refused to make the accommodation. A person is disabled if the person has a physical or mental impairment which substantially limits one or more major life activities. The effects of multiple impairments can combine to substantially limit one or more major life activities. Medina's combined anxiety and depression substantially limited his major life activity of working and was a disability. Cheng was aware of Medina's disability (anxiety and depression) because Medina informed him of his disability. Medina made a request for a reasonable accommodation when he told Cheng that there was a problem with mice and insects that was affecting his anxiety and depression. The request was necessary and reasonable. Cheng denied Medina's request by failing to remediate the mice and insects problem despite numerous requests. Cheng failed to provide Medina with a reasonable accommodation in violation of M.G.L. c. 151B, § 4(7A)(2). Li was also liable because as a property owner, Li cannot delegate his duty to comply with fair housing laws and his obligation to obey Chapter 151B extends beyond his own actions to those to whom he entrusts the property's management.

The Hearing Commissioner then addressed the claim under M.G.L. c. 151B, § 4(7A)(3) which provides in the housing context that disability discrimination includes discrimination against a person because of the person's need for a reasonable accommodation. To prevail under that provision, Medina had to prove that he was disabled; an accommodation was reasonably necessary to afford Medina an equal opportunity to use and enjoy the property; Cheng was aware of Medina's need for a reasonable accommodation or should have been aware of such need; and Cheng discriminated against Medina because of Medina's need for a reasonable accommodation. In describing the causative element, the Hearing Commissioner determined that it did not require a showing of hostility or other negative impulse and was satisfied upon a showing that the motivating force or determinative cause of the discrimination was the need for a reasonable accommodation. Cheng behaved quite inappropriately during a verbal altercation ("incident") with Medina, but even assuming Cheng's display of disrespect towards Medina could constitute discrimination, there was no evidence Cheng's behavior was based on Medina's need for a reasonable accommodation. When asked during the hearing, why he believed Cheng was so angry during that incident, Medina connected Cheng's anger to Medina's involvement with Inspectional Services. The Hearing Commissioner dismissed the claim.

Claims of a hostile living environment based on national origin and disability were addressed. The Hearing Commissioner determined there was no evidence that, prior to the incident, Cheng subjected Medina to any conduct based on his national origin (American), and that while Cheng was offensive during the incident, it

did not relate to Medina's national origin, with the evidence merely supporting a determination that Cheng thought he was a better American than Medina. The national origin based hostile living environment claim was dismissed.

Regarding the hostile living environment claim based on disability (combined depression and anxiety), the Hearing Commissioner determined Cheng's refusal to provide Medina with a reasonable accommodation, Cheng's repeated questioning in expletive fashion whether Medina was disabled during the incident and stating in a mocking manner, "... Oh yeah, you have mental problems....", all negatively impacted Medina's living environment. Considering the totality of that evidence, the Hearing Commissioner determined Medina was subjected to unsolicited conduct based on his disability and that a reasonable person in Medina's position would have considered the tenancy to have become substantially less desirable, thus making Cheng and Li (as owner) liable to Medina for creating a hostile living environment based on his disability.

The Hearing Commissioner dismissed the disparate treatment claims based on national origin and disability. There was no evidence Cheng treated Medina worse than persons who were not American. As to the incident, the evidence merely supported a determination Cheng thought he was a better American than Medina. As to the disparate treatment claim based on disability, while Medina was disabled and was subjected to adverse housing actions when Cheng unlawfully failed to provide him with a reasonable accommodation and created a hostile living environment based on his disability, discriminatory causation was absent.

The Hearing Commissioner determined Cheng's prolonged failure of remedying the mice and insects problem sufficed to demonstrate Cheng unlawfully interfered with Medina's right to reasonable accommodation under M.G.L. c. 151B making him liable to Medina for violating M.G.L. c. 151B, § 4(4A). Li was also liable for that violation as owner. The Hearing Commissioner dismissed the aiding and abetting claim under M.G.L. c. 151B, § 4(5).

Medina was awarded damages of \$25,000 for emotional distress caused by the denial of his request for a reasonable accommodation, creation of a hostile living environment based on disability, and interference with his right to a reasonable accommodation. The Hearing Commissioner awarded \$3,600 in compensatory damages to Medina for alternative housing costs (increased rent) incurred because of the lack of a reasonable accommodation and imposed a civil penalty of \$5,000 against Cheng. The Hearing Commissioner ordered Cheng and Li to immediately cease and desist from failing to provide reasonable accommodation in housing and creating a hostile living environment; to undergo MCAD Housing Discrimination 101 training; and to establish and implement a policy and procedure for administering reasonable accommodations requests from persons with disabilities for every property that each owns or manages with the policy to be submitted to the Commission for review and approval.

**MCAD and Indya Portlock v. Xiaobing Xin**, 47 MDLR 24 (2025), Hearing Officer Simone R. Liebman  
Portlock alleged that her landlord, Xin, discriminated against her on the basis of familial status (M.G.L. c. 151B, § 4(11)) and violated the lead paint law (M.G.L. c. 111, § 199A). Xin repeatedly refused to allow Portlock to add her grandson, who was under the age of 6, to her lease. Initially, Xin texted Portlock that she could not put the grandson on the lease because there was no deleading certificate for the apartment. At other times, Xin told Portlock that there was no lead on, or in, the property, while also refusing to provide Portlock with a deleading certificate or any other documentation showing there was no lead on the premises.



*Image: MCAD Hearing Officers Barshak and Liebman host a “Snack & Share” session with members of the MCAD’s Worcester Office in December 2024.*

As to the familial status discrimination claim, the focal point was whether Ms. Portlock “ha[d] a child or children” as contemplated by the statute. The law makes it unlawful to “refuse to rent or lease ... or otherwise to deny to or withhold from any person such accommodation because such person has a child or children who shall occupy the premises with such person, or to discriminate against any person in the terms, conditions, or privileges of such accommodations or the acquisition thereof ... because such person has a child or children who occupy or shall occupy the premises with such person ....” M.G.L. c. 151B, § 4(11). Noting there is no statutory guidance as to what it means to “have a child or children,” that 804 CMR 2.02(2) defines the scope of the familial status discrimination statute, and construing the phrase liberally to effectuate the purposes of Chapter 151B, the Hearing Officer concluded the statute included: (1) a person

who has a child through birth; (2) a person who has a child through adoption; (3) a person who is pregnant with a child; (4) a person who has obtained legal custody of a child; (5) a person who has commenced a process seeking legal custody of a child even if the process is in its most preliminary stages; and (6) arguably, a step-parent, grandparent or other person, who through actions, has a de-facto parental relationship with the child supporting a conclusion that a quasi-legal custodial relationship exists. Portlock did not prove her relationship with her grandson fell into one of these categories, and therefore, was not a person who “has a child or children” as required by the statute. Accordingly, the Hearing Officer dismissed the familial status discrimination claim.

After noting the significant differences between the law prohibiting familial status discrimination and the lead paint law, the Hearing Officer concluded Xin violated the lead paint law when she refused to revise Portlock’s lease to add the grandson to the lease. The reason for this refusal was Xin’s concern that there was, or might

be, dangerous levels of lead in the apartment, in addition to her concern that she did not have, or intend to obtain, a letter of full lead compliance and believed she would violate the lead paint laws if she added the grandson to the lease. Therefore, Xin discriminated against Portlock in the terms, conditions and privileges of the lease, and violated the lead paint law.

The Hearing Officer awarded \$45,000 in emotional distress damages, and ordered Xin to attend the Commission's Housing Discrimination 101 training and immediately cease and desist from refusing to sell, rent, lease, or otherwise deny to or withhold from any person or to discriminate against any person because premises do or may contain paint, plaster, or accessible structural materials containing dangerous levels of lead, or because the sale, rental, or lease would trigger duties under Sections 189A to 199B of M.G.L. c. 111, or regulations promulgated thereunder, or because a person chooses to exercise any right under said sections, or regulations promulgated thereunder.

**MCAD and Reed v. Graham and White**, 47 MDLR 33 (2025), Hearing Officer Jason Barshak

Reed alleged sex discrimination, sexual harassment, and retaliation in housing against the property manager (Graham) and the owner (White) of the rental property in which she had resided. Beginning in 2020, on numerous occasions while collecting Reed's rent, Graham gave Reed a look which for the most part, was always the same - glared at her breasts and vagina with a "freaky looking smile," like he was looking through her clothes (the "Look").

As to the sexual harassment claim, the Hearing Officer limited his analysis to the Looks that Graham gave to Reed in 2021 and to his comment to her in the spring of 2021, "You don't have to pay the rent", because the Complaint was untimely as to the actions in 2020 by Graham, and the continuing violation doctrine did not apply.

Viewed in the context of the Looks that Graham previously gave to Reed in 2021 while collecting her rent, his comment in the spring of 2021, "You don't have to pay rent," was an offer to accept a sexual favor in lieu of her paying rent and made her submission to or rejection of a sexual advance/request for sexual favor a term or condition of her tenancy and was quid pro quo sexual harassment, making him liable to Reed. Graham created a sexually hostile living environment as he subjected Reed to unsolicited conduct of a sexual nature in 2021 - repeatedly giving her the Look while collecting her rent; and making the "You don't have to pay the rent" comment - that a reasonable tenant in Reed's position would have found made the tenancy significantly less desirable. By sexually harassing Reed, Graham discriminated against her on the basis of sex in the terms or conditions of her accommodation. As the owner of the property, White could not delegate his duty to comply with fair housing laws, his obligation to obey Chapter 151B extended beyond his own actions to those to whom he entrusted the property's management, and as such was liable for all those violations.

Regarding the claim under M.G.L. c. 151B, § 4(4), Reed had to prove that she reasonably and in good faith believed Graham had engaged in wrongful discrimination; acted reasonably in response to that belief through reasonable acts meant to protest or oppose the discrimination (protected activity); and Graham took adverse action against her in response to the protected activity. Reed had a reasonable and good faith belief that Graham was subjecting her to sexual harassment. Reed's rejection of Graham's advances was protected activity. Graham locked Reed out of the property. Causation was proved as Reed's rejection of Graham's advances was an essential ingredient in her being locked out of the property. Graham was liable for violating M.G.L. c. 151B, § 4(4), and as the owner of the property, White was also liable for such violation.

Housing free from sexual harassment and from sex discrimination are rights granted by Chapter 151B. In 2021, Graham repeatedly gave Reed the Look while collecting her rent and made an offer of sex in lieu of paying rent by telling her, "You don't have to pay the rent." By such actions, Graham intended to interfere with those rights, making him liable for violating M.G.L. c. 151B, § 4(4A).

The Hearing Officer awarded Reed \$55,000 for the emotional distress suffered because of the unlawful practices, ordered Respondents to immediately cease and desist from sexual harassment, sex discrimination and retaliation in housing, and to undergo a training conducted by the Commission on sexual harassment, sex discrimination and retaliation in housing. The Hearing Officer issued a civil penalty against Graham of \$27,500.

## **DECISIONS ON PETITIONS FOR ATTORNEY'S FEES AND COSTS**

### **MCAD and Ramirez v. Manuel J. DeAmaral a/k/a Manuel J. Amaral and 39 Irving Street Realty Trust**, (August 29, 2024), Hearing Officer Jason Barshak

Ramirez prevailed on some, but not all, claims at a public hearing, which was prosecuted by two Commission Counsel. While Ramirez was successful in proving that DeAmaral failed to provide a reasonable accommodation and was personally liable, the Hearing Officer dismissed the Complaint against the Trust. Commission Counsel petitioned for attorney's fees. In evaluating the petition for attorney's fees, the Hearing Officer utilized the lodestar methodology for attorney's fee computation. Under that method, one calculates the number of hours reasonably expended to litigate the claim and multiplies that by an hourly rate it deems reasonable to derive a lodestar which may be adjusted. In general, no attorney's fees are awarded for services performed pursuing an unsuccessful claim unless such claim was sufficiently interconnected with a successful claim(s). In recognition of this principle, the Hearing Officer reduced the compensable hours as some of the hours of service appeared to primarily relate to the unsuccessful claim against the Trust. The Hearing Officer concluded that the requested hourly rates were reasonable, derived a total lodestar and determined that an adjustment to that amount was not required. An attorney's fees award of \$17,667.25 was issued.

### **MCAD and DaSilva v. United Fisherman Club, Inc.**, (November 15, 2024), Hearing Commissioner Sunila Thomas George

At public hearing, DaSilva prevailed on her hostile work environment claim, though her quid pro quo and retaliation claims were dismissed. DaSilva petitioned for \$3,187.50 in fees, but the Hearing Commissioner reduced the request by 20% to account for time spent on the unsuccessful retaliation claim. The Hearing Commissioner found that the requested hourly rate of \$425 was reasonable and declined to discount travel time. The Hearing Commissioner applied the lodestar method and awarded \$2,550 in attorney's fees.

### **MCAD & Andy Nom v. Acton Auto Body, Sonia Trinh, Jose Mourato**, (February 10, 2025), Hearing Officer Simone R. Liebman

After Nom prevailed at public hearing on his claim of retaliatory suspension and transfer against Acton Auto Body, his counsel - Attorneys Fogelman and Rooks - petitioned for attorney's fees and costs, seeking \$83,134 in attorneys' fees and \$2,405.55 in costs. Acton Auto Body opposed the petition. The Hearing Officer ordered the parties to file a supplemental statement regarding a reasonable hourly rate for Nom's counsel, including: "specific information about the average hourly rate for attorneys with similar years of experience who conduct similar work at the times the services in this case were provided and who work in the same or similar community." Supplemental statements were filed.

The Hearing Officer addressed the hourly rates to be applied. Attorney Fogelman requested \$650/hour, and Attorney Rooks requested \$500/hour. Because Attorney Fogelman's law firm was located in Newton (which commands a lower hourly rate for its attorneys than Boston firms), the small size of the law firm, and the lack of complexity of this case, the Hearing Officer reduced by 10% the rates requested. After additional analysis, the Hearing Officer determined that Attorney Fogelman should be awarded \$560/hour, and Attorney Rooks should be awarded \$410.22/hour. The Hearing Officer declined to reduce attorney's fees based on Acton Auto Body's arguments that: Nom may have been represented on a contingency fee basis, Nom lives in a community with lower incomes and would not have been able to afford the hourly rates sought, and Respondent's counsel charged his clients \$250-\$300 per hour and due to both sides' comparable skills and experience, the hourly rate for Nom's attorneys should be \$250-\$300.

The Hearing Officer addressed the reasonable number of hours expended to litigate the case. The Hearing Officer rejected the argument that the hours spent at hearing by Attorneys Fogelman and Rooks were duplicative or excessive, concluding that both attorneys were actively engaged in the hearing and integral to the prosecution of the case. The Hearing Officer rejected the argument that the dismissal of the individual respondents should result in a reduction of attorney's fees awarded, finding that the successful retaliatory suspension and transfer claims were sufficiently intertwined with the claims of individual liability. The Hearing Officer accepted Respondent's argument that attorney's fees should be reduced based on the Commission's dismissal of Nom's claims of race/national origin harassment and retaliatory termination, because the successful claims and those unsuccessful claims did not share a common nucleus of facts. As a result, the Hearing Officer reduced the number of hours reasonably expended by 25%. The Hearing Officer declined to reduce the lodestar amount on the basis that damages awarded were significantly less than the attorney's fees sought. The Hearing Officer based this on the societal importance of the rights vindicated by this case, and the decision to reduce by 25% the number of hours reasonably expended.

Based on the above, the Hearing Officer awarded \$52,426.47 in attorneys' fees and \$2,405.55 in costs.

**MCAD and Ferguson v. D House Project LLC and Graham**, (May 7, 2025), Hearing Officer Jason Barshak At public hearing, Ferguson prevailed on several claims including sex discrimination and sexual harassment in housing but did not prevail on an aiding and abetting claim. Ferguson filed a petition for attorney's fees for services by Attorney Edward Rice at an hourly rate of \$525 and for services of a Rule 3:03 law student, at an hourly rate of \$125. The Hearing Officer utilized the lodestar approach described above. The Hearing Officer considered that Ferguson did not prevail on her claim of aiding and abetting but did not reduce compensable hours for that reason because such claim was inextricably connected with the successful claims. The Hearing Officer determined that a slight reduction in compensable hours for Attorney Rice was appropriate based on other reasons. In support of his petition, Attorney Rice filed an affidavit - averring that an hourly rate of \$525 was commensurate with attorneys of his experience representing tenants in the Boston area - and affidavits from two lawyers in support of his requested hourly rate. The Hearing Officer determined it was appropriate to treat Attorney Rice as a partner in a small or mid-sized law firm and that such attorneys command a lower hourly rate than their counterparts in large firms. For that reason, the Hearing Officer discounted the requested \$525 per hour by 10% to derive a reasonable hourly rate for Attorney Rice of \$472.50. As for the 3:03 law student, the Hearing Officer determined that her efforts were productive and not duplicative of Rice's and \$110 was a reasonable hourly rate for her services. The Hearing Officer derived a lodestar and determined that an adjustment to that amount was not warranted. An attorney's fee award of \$13,615.25 was issued.

# FULL COMMISSION DECISIONS

The Full Commission is comprised of the three MCAD Commissioners. The Investigating Commissioner shall not participate in the deliberations of the Full Commission except when necessary to create a quorum or resolve a split decision. 804 CMR 1.23(10) (2020). After review of the decision of the Hearing Commissioner or Hearing Officer, the Full Commission may affirm the decision, remand the matter for further proceedings before the Hearing Commissioner, or set aside or modify the decision if it determines that the substantial rights of any party may have been prejudiced.

In FY25, the Full Commission issued three decisions. The decisions issued in FY25 are described below. All of the decisions are published on MCAD's website, and in the Massachusetts Discrimination Law Reporter where noted.

## **MCAD & Rosa Silva v. Acushnet Co. et al.**, 46 MDLR 73 (2024) (Employment-Age-Sex-Full Commission Review-Procedural Regulations-Evidence-Credibility)

Complainant appealed to the Full Commission following the Hearing Officer's decision that the Respondent organization—a golf ball manufacturer—and individually-named supervisors were not liable for age and gender discrimination, subjecting Complainant to a hostile work environment, or retaliation when Complainant was suspended and subsequently terminated from her position due to poor performance. Complainant's appeal noticeably lacked citations to legal authority in support of her arguments. The Full Commission highlighted the procedural requirement that a party petitioning the Full Commission for review must provide citations to legal authorities when alleging purported errors of law in a Hearing Officer's decision. The Full Commission, did, however, engage with Complainant's arguments that the Hearing Officer's factual findings and credibility determinations were not supported by substantial evidence in the record. The Full Commission did not depart from the well-established practice of granting deference to a Hearing Officer's credibility and fact-finding determinations. Accordingly, the Full Commission affirmed the Hearing Officer's decision in its entirety.

## **MCAD & Raphaela Thomas v. Stash's Pizza**, 46 MDLR 77 (2024) (Public Accommodation-Race-Vicarious Liability-Respondeat Superior-Supplemental Attorney's Fees)

The Respondent, a pizza restaurant, appealed the decision of the Hearing Officer holding it liable for race discrimination and retaliation in violation of the public accommodations statute, after an unnamed White employee provided poor customer service to Complainant (a Black woman) in-person and used racial epithets and slurs over the phone and by text message immediately following the in-person interaction. Respondent appealed to the Full Commission on the grounds there was insufficient evidence to establish the unnamed employee was, in fact, Respondent's employee, but even if he was an employee, his actions were outside the scope of his employment. The Full Commission found there was substantial evidence in the record to support the Hearing Officer's conclusions that the perpetrator—whether or not he was named—was an employee and Respondent was vicariously liable for his conduct. In affirming Respondent's liability under a theory of respondeat superior, the Full Commission found that the conduct in question, a customer service interaction, was the type of work Respondent's employee was hired to perform, the conduct occurred within authorized time and space limits, and was at least partially motivated by a desire to serve the employer. The fact that the customer service interaction was handled in a discriminatory manner did not render the conduct suddenly outside the scope of employment. Additionally, Respondent argued that the Hearing Officer should not have admitted evidence that was allegedly unduly prejudicial, including two police reports related to the incident at Respondent's restaurant, and speculated on alternative evidence Complainant could have introduced at

public hearing. In rejecting this argument, the Full Commission relied on the plain language of M.G.L. c. 151B, § 5 and the Commission's regulations, which state that the Commission is not bound by the rules of evidence and, as such, a Hearing Officer has broad discretion to consider relevant evidence. Accordingly, the Full Commission affirmed the Hearing Officer's decision awarding Complainant damages for emotional distress and attorney's fees and costs with interest.

Additionally, because the Complainant intervened in this appeal pursuant to 804 CMR 1.23(2) and was successful, she was entitled to submit a petition for supplemental attorney's fees and costs pursuant to 804 CMR 1.23(12)(c). The Full Commission found that the petitions filed by two attorneys representing Complainant contained entries that were duplicative, vague, or otherwise unnecessary to the litigation of the appeal. Entries that generically identified a phone call or email without any additional explanation of how this work was related to the appeal before the Full Commission were insufficient and discounted. Accurate, sufficiently detailed time records are essential for the Commission to determine the reasonableness of the work performed, the time spent performing that work, and if the work was necessary to the case. Attorney's fees petitions that are bare and lack specificity face the risk of being deeply discounted or denied outright. After discounting the fee petitions for lack of specificity and duplicative entries, Complainant was awarded \$19,875.37 in supplemental attorney's fees.

**MCAD & Pavlov v. Happy Floors, Inc. and New Floors, Inc.**, 47 MDLR 1 (2025) (Employment-Sex-Pregnancy-Jurisdiction-Supplemental Attorney's Fees)

The Respondent employer appealed the Hearing Commissioner's decision holding it liable for sex and pregnancy discrimination primarily on jurisdictional grounds, arguing that it was not an "employer" under M.G.L. c. 151B because it employed fewer than six employees and that the Hearing Commissioner erred by finding that its flooring workers were employees rather than independent contractors. The Full Commission's decision in this case included a detailed discussion of the Commission's jurisdiction over employers having at least six employees, the time frame relevant to the jurisdictional determination, and the nature of the employment relationship between Respondent and its workers to support the Hearing Commissioner's conclusions that they were, in fact, employees and not independent contractors. The Hearing Commissioner's findings were supported by careful consideration of at least 20 non-exhaustive factors that demonstrated these workers were employees. Some of these factors weighed in favor of Respondent's argument that the flooring workers were independent contractors, while others demonstrated the workers were actually employees. Respondent maintained that these workers were independent contractors and urged the Full Commission to reweigh the factors analyzed by the Hearing Commissioner. Regardless of the label Respondent assigned to these flooring workers, it is the nature of the employment relationship that determines whether a worker is an independent contractor or an employee for the purpose of establishing jurisdiction under M.G.L. c. 151B.



*Image: MCAD's Director of ADR, Michael Zeytoonian, Acting Chief of Investigations, Lila Roberts, Investigations Supervisor, Gina Leonard, and Director of Communications, Justine LaVoye, attend the 2025 Department of Secondary Education (DESE) Civics Showcase in Boston as Community Advisors in June 2025.*

The Full Commission addressed the question of how much proof is required regarding the nature of the employment relationship. The Full Commission determined that this burden cannot be so onerous that it would effectively allow employers to evade jurisdiction under M.G.L. c. 151B and counteract the broad remedial purposes of the statute. Though not controlling law in this case, the Full Commission looked at M.G.L. c. 149, § 148B, the independent contractor law enforced by the Attorney General for additional context. In contrast with the standard of M.G.L. c. 151B placing the burden on complainants to prove workers are employees rather than independent contractors, the independent contractor law presumes employee status and requires the employer to prove otherwise. Both M.G.L. c. 151B and the independent contractor law are construed liberally to accomplish their broad and equally important remedial purposes, i.e., respectively, protecting employees from unlawful discrimination, and safeguarding employees' fair labor rights. After determining the Commission had jurisdiction over this case, the Full Commission affirmed the Hearing Commissioner's findings of sex and pregnancy discrimination and awards of damages for emotional distress and Commission Counsel fees.

Additionally, because the Complainant intervened in this appeal pursuant to 804 CMR 1.23(2) and was successful, she was entitled to submit a petition for supplemental attorney's fees and costs pursuant to 804 CMR 1.23(12)(c). In addition to the contemporaneous time records and affidavit submitted in support of the supplemental fee petition, Commission Counsel submitted a copy of the 2010 Massachusetts Law Reform Institute ("MLRI") attorney's fees scale, which provides ranges of reasonable hourly rates based on an attorney's years of experience. Though likely outdated, the rates listed on the MLRI scale were reasonable. Commission Counsel was awarded supplemental attorney's fees in the amount of \$3,187.65.



*Image: The MCAD Summer Intern Celebration Lunch hosted by Chairwoman George in August 2024.*

# GLOSSARY OF TERMS

**Administrative Resolution:** A complaint that is resolved at the MCAD other than through completion of the investigative process or final adjudication. Such cases may be resolved through the actions of the parties or action by the Commission.

**Alternative Dispute Resolution (ADR):** The process in which disputants are assisted in reaching an amicable resolution through the use of various techniques. ADR describes a variety of approaches to resolve conflict which may avoid the cost, delay, and unpredictability of an adjudicatory process.

**Americans with Disabilities Act (ADA):** The Americans with Disabilities Act is a federal law that was enacted by the U.S. Congress in 1990. The ADA is a wide-ranging civil rights law that is intended to protect against discrimination based on disability.

**Chapter 30A Appeals:** State Administrative Procedures Act governing judicial review of a final agency decision of the Full Commission.

**Chapter 478:** Case closure when the complaint is withdrawn from MCAD to remove the case to Court.

**Conciliation:** Mandatory post-probable cause resolution process in which the Commission attempts to achieve a just resolution of the complaint and to obtain assurances that the Respondent will satisfactorily remedy any violations of the rights of the aggrieved person, and take such action as will assure the elimination of discriminatory practices, or the prevention of their occurrence, in the future.

**Disposition:** The official document issued stating the determination by the Investigating Commissioner at the conclusion of an investigation.

**EEOC:** U.S. Equal Employment Opportunity Commission is the agency of the United States government that enforces the federal employment discrimination laws.

**HUD:** The U.S. Department of Housing and Urban Development. Within the Department of Housing and Urban Development, the Office of Fair Housing and Equal Opportunity (FHEO) administers and enforces federal laws to ensure equal access to housing.

**Jurisdiction:** the official power to make legal decisions and judgments.

**Lack of Jurisdiction:** A determination that the MCAD lacks the statutory authority to investigate, adjudicate, or otherwise address the allegations charged.

**Lack of Probable Cause:** A determination by the Investigating Commissioner of insufficient evidence upon which a fact-finder could form a reasonable belief that it is more probable than not that the Respondent committed an unlawful practice.”

**Mediation:** Voluntary pre-disposition process in which the parties in the dispute attempt to resolve the outstanding issues and arrive at a settlement with the assistance of MCAD trained personnel.

**Pre-Determination Settlement:** When a settlement is reached before the conclusion of the investigation.

**Probable Cause:** A determination of the Investigating Commissioner that there is sufficient evidence upon which a fact-finder could form a reasonable belief that it is more probable than not that the Respondent committed an unlawful practice.

**Protected Category:** a characteristic of a person which cannot be targeted for discrimination. Protected categories differ based on the type of alleged discrimination. Common protected categories include race, gender, gender-identity, ethnicity, age, national origin, sexual orientation, military status, and disability.

**Regulations:** The whole or any part of every rule, regulation, standard or other requirement of general application and future effect, including the amendment or repeal thereof, adopted by an agency to implement or interpret the law enforced or administered by it.

**Substantive Disposition:** The disposition of a complaint upon conclusion of the investigation resulting in a finding of either “probable cause” or a “lack of probable cause.”

# MCAD STAFF LIST

Jenna Abuwar*	Juanita Duvall	Peter Mimmo
Yasin Adow	Alethea Dys-Peirce	Ying Mo▪
Eric Allbright	Ashley Edwards*	Kline Moore
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Kristen Dannay▪	Ashley Longmoore	Devin Wintemute
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Elizabeth Davey	Matthew Marotta	Kendrick Yu
Vanessa Davila▪	Brendan McHugh	Michael Zeytoonian
Edith Demont-Rosenthal	Michael Memmolo	
Sabrina Drumond	Lynn Milinazzo-Gaudet▪	

\* Employed by MCAD for a portion of FY25

▪ 10+ years of service to MCAD

~ Contract Employee

# MCAD ADVISORY BOARD

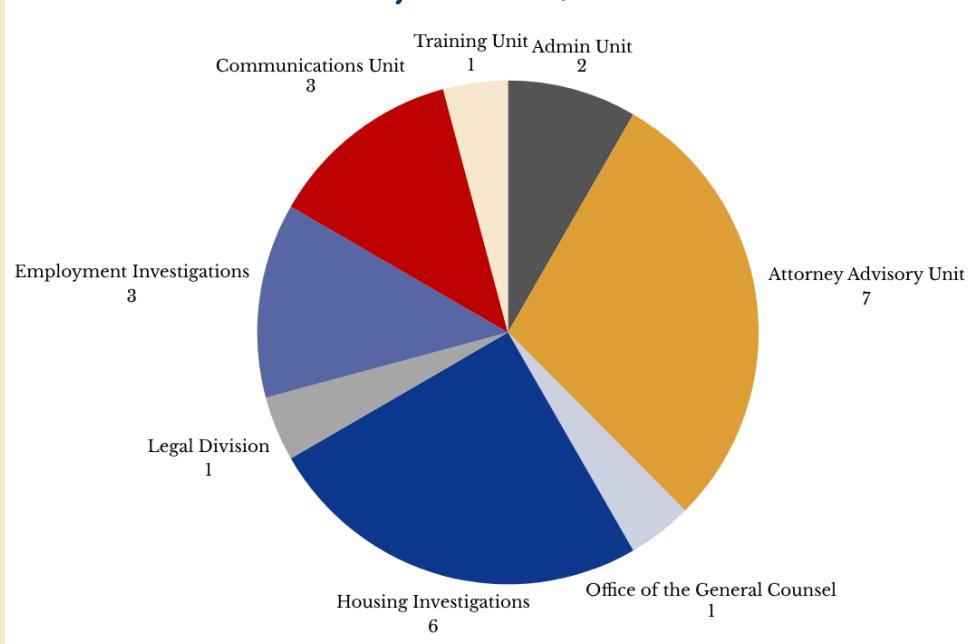
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# MCAD FY25 INTERNS

Ann Carew <sup>^</sup>	Ethan Kelliher
Jerry Chen	Tsering Lama
Liliana Chong Cuy	Kirsten Mettler
Tiffany Chu	Alexander Murphy <sup>^</sup>
Abbey Engler	Jasmine Park
Julia Fair	Isabella Pawloski
Rouxuan (Alice)	Sonali Peiris
Fang <sup>^</sup>	Valeria Romero
Vanessa Feola	Ruofei Shang <sup>^</sup>
Solomon Hayes	Leeling Unitt
Nautica Jacobs	Alexander Weddall

<sup>^</sup> interned for multiple semesters

## FY25 Breakdown of Interns by Unit/Division





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