# MDHR Enforcement Case Summaries

## MDHR Cases with Probable Cause Determinations 2011-2015

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February 2016

Minnesota Department of
HUMAN RIGHTS

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Minnesota Department of
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# Enforcement Summary

## Introduction

The Minnesota Department of Human Rights (MDHR or Department) is a Cabinet level administrative agency charged with the responsibility of enforcing the Minnesota Human Rights Act (Act), Minnesota Statute §363A. As part of its duties under the Act, the Department is charged with receiving and investigating complaints of discrimination and determining the likelihood that a violation of the law has occurred.

When the Department believes that discrimination has occurred, the Department attempts to negotiate a settlement. If negotiations are unsuccessful, the Department may refer the matter to the Office of the Attorney General for litigation.

All individuals in Minnesota are protected from discrimination under the Act and complaints of discrimination are brought before the Department from across the State of Minnesota. At any point in time last year, the Department had at least one complaint from more than 60 of the 87 counties within the State of Minnesota.

The range of discrimination complaints filed with the Department is quite broad. The investigators within the Department are responsible for investigating claims of discrimination in areas such as business, credit, education, employment, housing, public accommodation, public services and property.

In the past four years, the Department has made significant progress in improving its efficiency in investigating complaints of discrimination. As a result of its efforts, the Department has reduced the average length of time to complete an investigation, reduced its inventory of complaints and reduced the number of complaints older than a year.

Since becoming Commissioner in March of 2011, I have often been asked about the work of the Department in investigating complaints of discrimination. MDHR has prepared this report to provide the citizens of Minnesota with: information about what conduct is prohibited under the Act, the recent efforts of the Department to investigate complaints of discrimination and a summary of recent disputes in which the Department has found probable cause.

On behalf of the Department, we hope you find this report helpful in understanding the Act and the work of the Department.

Regards,

Kevin M. Lindsey
Commissioner

## ENFORCEMENT

### Background

The Department is responsible for investigating complaints of discrimination under the Minnesota Human Rights Act. When the Department investigates a complaint of discrimination, it acts as a neutral fact-finder to determine whether a violation of the Act has occurred.

The range of disputes that come before the Department is very broad in that MDHR's jurisdiction covers issues such as education, contracting, public accommodation, public services, employment and housing. However, the most common disputes brought before the Department are employment complaints.

A complaint of discrimination under the Act must be filed in state court, federal court, or the Department within one year of the discriminatory act. If an individual fails to file their complaint within one year in either state court, federal court or the Department, the individual loses their legal right to pursue relief under the Act.

### Filing a complaint

Filing a complaint with the Department is free. In comparison, the cost to file a complaint in federal or state court can be substantial. For example, the cost to file a legal complaint in Minnesota Federal District Court is $400;[1] the cost to file a legal complaint in a Minnesota State District Court such as Ramsey County is $327[2].

An individual does not need to hire an attorney to file a complaint with the Department. The majority of complaints investigated by the Department are filed by individuals who did not have the assistance of an attorney. The individual who files a complaint with the Department is referred to as the charging party.

### Investigation

After the complaint is filed with the Department, MDHR will ask the respondent, who is the individual or entity that allegedly committed the discriminatory act, to respond in writing to the complaint of the charging party. The Department upon receiving the respondent's response may attempt to engage in settlement negotiations between the parties or ask the parties if they wish the services of a volunteer mediation from the Department's panel of volunteer mediators.

[1] An individual can petition the Court to have the $50 administrative fee waived upon demonstrating to the Court that he or she is a person of limited financial means.
[2] The cost to file a complaint in district court varies throughout the State of Minnesota.

**Mediation**

If the parties are not interested in pursuing settlement discussions or having the matter referred to volunteer mediation, the Department will initiate an investigation. During the course of the investigation, the Department will obtain documents from the parties and interview witnesses with knowledge.

**Determination**

Upon completing its investigation, the Department issues, in writing, either a no probable cause determination or a probable cause determination. The determination explains why the Department believes or doesn't believe that a violation of the Act has occurred.

**No Probable Cause Determination**

If a no probable cause determination is issued by the Department, the individual impacted by the decision may still seek legal relief through the judicial system or appeal the no probable cause determination decision to the Commissioner. The Commissioner will review the decision of the enforcement officer and issue an opinion within 20 days. Individuals who do not appeal to the Commissioner or lose their appeal have up to 45 days to file legal action in either state court or federal court.

**Probable Cause Determination**

If the Department issues a probable cause determination, the Department attempts to settle the dispute. The efforts of the Department to negotiate a settlement after issuing a probable cause determination are referred as conciliation efforts. Prior to conciliation, a respondent may file an appeal with the Commissioner and seek to have the determination reversed. If the probable cause determination is upheld by the Commissioner, the matter proceeds to conciliation.

**If Conciliation Fails**

If the Department is unable to negotiate a settlement during conciliation, the Department has the option of referring the matter to the Office of the Minnesota Attorney General to litigate the dispute or to dismiss the case to allow the individual to pursue the case in state court or federal court. The vast majority of probable-cause determinations issued by the Department are settled during conciliation without the Department or the individual having to file legal action.

If the Minnesota Attorney General is called upon by the Commissioner to litigate the dispute, the dispute may be filed in state district court or before the Office of Administrative Hearing. If the charging party has claims beyond the Act, the charging party will retain legal counsel to advance those additional claims which are unrelated to the Act.

**EEOC Work Share Agreement and Collaboration with Local FEPAs**

The Department has a work-share agreement with the Equal Employment Opportunity Commission (EEOC). The EEOC is a federal administrative agency charged with the responsibility of investigating complaints of discrimination. Under federal law, an individual must file a charge of discrimination within 300 days of the act of discrimination.

MDHR, under the terms of the work-share agreement, on an annual basis, typically reviews hundreds of employment discrimination charges that have been completed by the EEOC to ensure that the charging party does not have a viable employment discrimination claim under the Act. For example, under federal law an employer with 10 employees is not subject to the jurisdiction of the EEOC for sexual harassment. However, the employer with 10 employees would be subject to the jurisdiction of the Department under the Act.

MDHR, when appropriate and feasible, seeks to coordinate with the EEOC on enforcement efforts which align with the EEOC's strategic plan. MDHR also partners with the EEOC to educate the public, employers and the legal community on anti-discrimination law at the federal and state level. During the past four years, the Department has invited and hosted EEOC officials at MDHR events such as the Human Rights Symposium. Additionally, the Department has participated in several educational seminars and events with EEOC officials such as State Bar events and the Forum on Workplace Inclusion.

While MDHR does not have a workshare agreement with the EEOC, the Department seeks to coordinate enforcement efforts with the local fair employment practice agencies (FEPA), which include the Minneapolis Human Rights Department and the St. Paul Human Rights Department. The Department also partners with the local FEPAs on education outreach efforts to the public, employers and legal community.

**Investigation Efforts**

In 2011, the Department engaged in a process improvement initiative involving all of the administrative and investigation staff within the Department. The goal of the process improvement initiative was to:

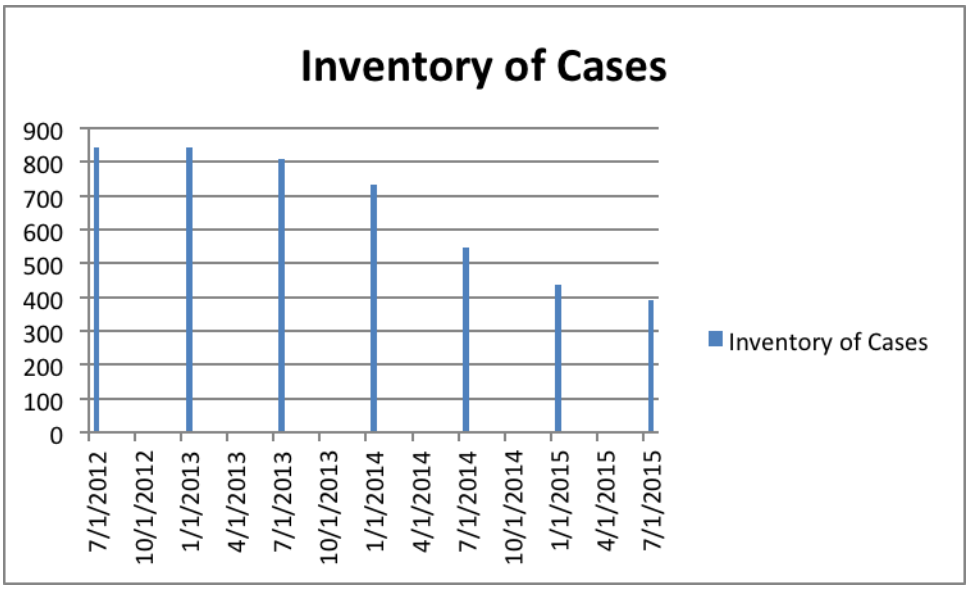
1. Decrease the number of cases in the Department's inventory,
2. Decrease the number of cases older than one year, and
3. Reduce the average time to issue a determination.

The improvement initiative discussion resulted in the implementation of several great ideas from the Department's staff as to how the Department could more effectively investigate complaints of discrimination.

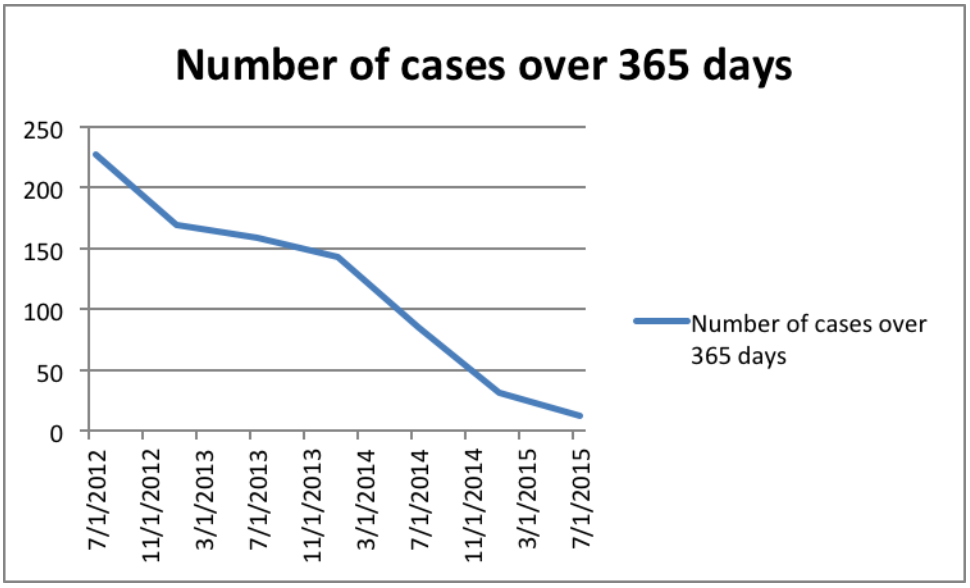
MDHR also instituted a "rocket docket" program to give expedited attention to cases that could be resolved quickly. Rocket docket is appropriate where the dispute has few issues, few witnesses to interview and where the law is clear. Rocket docket treatment is appropriate for no probable cause and for probable cause determinations. Rocket docket allowed the Department to more quickly identify and resolve non-complex matters which in turn improved the Department's overall efficiency.

The Department also suspended its practice of administratively dismissing cases without investigation through its "docket and dismiss" program. Previously the Department had used the "Docket and Dismiss" program, consistent with legislative authority, to dismiss without investigation cases which it believed were without merit. While the suspension of the docket and dismiss program increased the number of cases in its inventory in the short term, the Commissioner believed that investigating all cases filed with the Department and issuing a written determination was the proper objective to pursue.

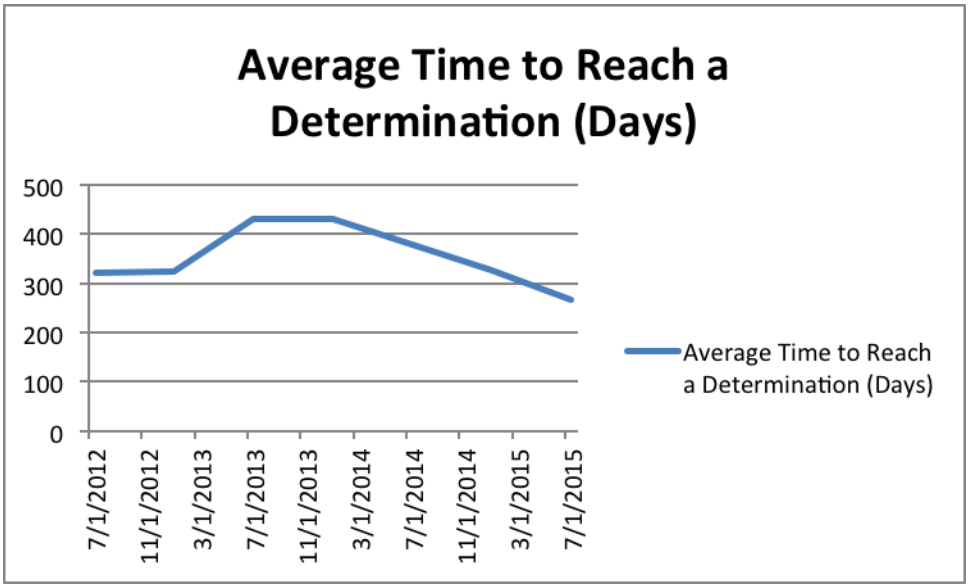
As of July 2012, the Department had 844 cases under investigation. During the past three calendar years, the Department has increased the number of cases investigated by the Department. Three years later, the number of cases within the Department's inventory had dropped to 390 as the Department has become more efficient in investigating cases. During calendar year 2014, MDHR completed 891 investigations.




During the past three years, the Department focused its efforts on eliminating the older cases in its inventory. Under the Act, the Department should complete all of its investigation within a year unless the case is defined as complex. As a result of its commitment to eliminating older cases, the Department experienced a 95% decrease in the number of cases older than 365 days when its inventory of older cases dropped from 228 in 2012 to 12 cases in 2015.




After the docket and dismiss program was suspended, the Department saw an increase in the average time to issue a determination as many older cases were added to the Department's inventory. As a result, the average time to issue a determination peaked at 432 days as of July 2013. Two years later, the average time for the Department to issue a determination had dropped 39% to 266 days.



## Discrimination Prohibited by the Act

### Employment

The Act prohibits discrimination by employers, employment staffing agencies, and labor organizations because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation and age[3]. In some instances, state law provides more protection for discrimination. For example, an individual must be at least 40 years old to bring an age discrimination claim under federal law, whereas an individual needs to be 18 years old to bring an age discrimination claim under the Act.

Historically, the majority of complaints, approximately 55% to 65%, are employment related disputes. The employment disputes concern failure to hire, failure to promote, hostile work environment, termination and failure to accommodate. The most common employment disputes over the past three years are disability and race discrimination cases; the next most common employment disputes are gender/sex and age.

### Real Property

The Act prohibits individuals, real estate institutions, financial institutions or the employees or agents of real estate and financial entities from refusing to sell, rent or lease real property to a person because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or familial status[4].

### Public Accommodation

The Act prohibits discrimination in the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation because of race, color, creed, religion, disability, national origin, marital status, sexual orientation or sex[5]. Examples of places of public accommodation are restaurants, hotels, theaters, and businesses.

### Public Service

The Act prohibits discrimination in the access to, admission to, full utilization of or benefit from any public service because of race, color, creed, religion, national origin, disability, sex, sexual orientation, or status with regard to public assistance or fail to ensure physical and program access for disabled person unless the public service can demonstrate undue hardship[6]. Examples of public service are decisions made by public officials, police officers, firefighters, or administrative officials.

### Education

The Act prohibits discrimination in the utilization of, benefit from or services rendered to any person because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance, sexual orientation or disability or fail to ensure physical and program access for disabled persons[7].

[3] Minn. Stat. §363A.8
[4] Minn. Stat. §363A.9 and Minn. Stat. §363A.10
[5] Minn. Stat. §363A.11 and Minn. Stat. §363A.19
[6] Minn. Stat. §363A.12
[7] Minn. Stat. §363A.13

**Credit**
The Act prohibits discrimination in the extension of personal or commercial credit or in the requirements for obtaining credit, because of race, color, creed, religion, disability, national origin, sex, sexual orientation, marital status, or due to the individual receiving public assistance including medical assistance, housing subsidies, rental assistance or rent supplements[8].

**Business**
The Act prohibits discrimination to do business with, refuse to contract with or to discriminate in the basic terms, conditions or performance of a contract because of a person's race, national origin, color, sex, sexual orientation or disability.[9]

**Aiding Discrimination**
An individual who helps, encourages, or compels a person to engage in discrimination violates the act. Additionally, obstructing, resisting or interfering with the Commissioner or any of the Commissioner's agents also constitutes a violation of the act.[10]

**Reprisal**
The Act prohibits retaliation against an individual who has filed a charge, testified, assisted, associated with or participated in an investigation proceeding or hearing under the Act. [11] Reprisal includes any form of intimidation, retaliation or harassment.

## CASE SUMMARIES

Below you will find a summary of the disputes that were resolved by the Department through its investigation, mediation or conciliation efforts from 2011 through June 2015. While the Act uses the terms 'gender' and 'sex', the case summaries use only the term gender. In most of the settlement documents for the cases below, the person or organization alleged to have engaged in discrimination has signed a settlement document without admitting to have violated the Act.

The summary of cases provided below, however, is not meant to include all probable cause claims filed with the Department but rather is meant to educate about facts which support findings of probable cause issued by the Department.

## Employment

**Age**
***Foley v. General Parts International, Inc. d/b/a CARQUEST Auto Parts*** – Foley, who was 62 at the time of his application, was required to fill out an application that asked him to disclose

[8] See Minn. Stat. §363A.16
[9] See Minn. Stat. §363A.17
[10] See Minn. Stat. §363A.14
[11] See Minn. Stat. §363A.15

the date of his birth. Foley didn't receive an interview from General Parts. The Department investigated the hiring process for the position which Foley interviewed and found that there was no legitimate reason to request information from Foley about his age. The Department conciliated the matter and General Parts agreed to pay damages, attorney's fees, and remove identified inappropriate questions from its employment application.

***Olson v. Bellingham Farmer's House*** – Olson, who was 59 at the time of his application, was told by Bellingham that it was seeking a younger person to fill the position. The Department found that Olson was a more qualified candidate than the younger individual who was ultimately hired by Bellingham Farmer's House. The settlement included training for managerial and supervisory staff and damages for Olson.

***Miller v. NorthPoint Health & Wellness Center*** (59812) – The charging party, a 58- year-old male employed part-time, was informed that his position and a second part-time position were to be consolidated into one full-time position. Miller was invited to apply for the position. A younger, less qualified candidate was selected for the position. This matter was resolved through conciliation where respondent agreed to provide training to management and supervisory employees and pay damages and attorney fees to the charging party.

***Schultz v. City of Woodbury*** (60491) **-** Schultz is a 48-year-old female who applied for two employment positions with the respondent. The Department's investigation found the respondent was in violation of the Human Rights Act by asking an impermissible question concerning age and for its actions of excluding candidates who failed to answer the question. This matter was resolved through conciliation where the respondent agreed to review and revise its pre-employment inquiry forms, pay damages and pay attorney fees to the charging party.

***Hesla v. ISD #625*** (55002) **-** Hesla is a 53-year-old man who was employed by respondent. The Department's investigation found older tenured teachers were chosen for transfer out of the building at a much higher rate than younger tenured teachers. This matter was resolved through conciliation where respondent agreed to provide training to management personnel, monitoring of respondent's reassignment process and pay damages.

***Pilgrim v. Fireside Lounge Bar and Restaurant*** (57580) (See companion case 57554 under Reprisal) - The Department's investigation found written and verbal instances of age-related criticism made by respondent's owner and a pattern of increased scrutiny and discipline directed at the charging party but not younger employees who engaged in similar conduct. This matter was resolved through conciliation.

***Nemec v. City of Fairfax*** (58757) **&** ***Blaalid v. City of Fairfax*** (58977) **-** Charging parties were 65- and 49-years-old respectively. Both men applied for a temporary seasonal park and streets maintenance position. At a city council meeting, which was audio recorded, a respondent city council member, who is also a personnel committee member, stated the city was looking to only hire a high-school student. This matter was resolved through conciliation where the respondent agreed to provide training and pay damages and attorney fees.

***Gunderson v. MnSCU MN State University Moorhead*** (55669) **-** (see companion case in Reprisal) Gunderson, a 62-year-old female, was employed by the respondent. After telling

her supervisor she would not accept the offer of early retirement, Gunderson was told her position would be cut by 25%. Younger part-time employees, approximately 20-years younger, were hired to do part of Gunderson's work. The Department's investigation found several witnesses who stated that Gunderson's supervisor made remarks which suggested bias towards older workers. This matter was resolved through conciliation where respondent agreed to provide training to all supervisors and managers and pay damages.

***Ponzio v. Konica Minolta Danka Imaging Co.*** **(**55006) **-** Ponzio is a 37-year-old male who was employed by respondent, most recently as a branch manager. Ponzio was demoted and replaced by an individual who was 44-years-old. The Department's investigation, which included several supporting witnesses, supported Ponzio's claim he was terminated because his employer believed he was too young for his position. This matter was resolved through conciliation. The parties agreed to keep the terms of the conciliation confidential.

***Evans v. ISD #625*** *(55035)* & ***Osero v. ISD #625*** *(55058)* & ***Grady v. ISD #625*** *(55084)* & ***DeLong v. ISD #625*** *(55110)* - The Department issued a probable cause determination after evidence showed that older tenured teachers were chosen for transfer out of the building at a much higher rate than younger tenured teachers.

***Zacharias v. GuardsMark*** (55468) – The charging Party, a 67-year-old long-time security guard was laid off. The Department issued a probable cause determination after investigation found the charging party's personnel status form was marked "eliminated by management" and his performance review was changed from "exceeded expectations" performance to "poor performance."

***Cavanaugh v. Midway Maintenance LLC*** (55621) - The Department issued a probable cause determination when investigation found Cavanaugh, a 70-year-old well-performing employee of respondent, was terminated without notice and he was replaced by a 38-year-old employee with no previous experience.

**Age/Disability**

***Yang v. North American Property Services Inc.*** (56311) & ***Lor v. North American Property Services Inc.*** (56312) - The charging parties, 60- and 59-years-old respectively, are spouses who filed companion cases; they worked as custodians for respondent. Respondent hired a new manager who scrutinized and criticized the charging parties' performance and disciplined them more harshly than other employees. Yang had a medical problem while at work; both Yang and Lor left the worksite in an ambulance. Upon returning to work, credible witness information supported the allegation that the respondent's manager repeatedly stated the charging parties were too old to continue working and that respondent's manager regarded Lor as having a disability. This matter was resolved through conciliation where respondent agreed to pay damages to charging parties.

***Schwab v. Health Inventures LLC*** (56747) – The charging party, a 73-year-old employee of respondent, sustained a fall causing lasting physical limitations. The Department's investigation found the respondent was uncooperative in replying to Schwab's repeated requests to return to work, refused to allow her to return to work, even though it knew Schwab's doctor had cleared her to do so, and likely terminated Schwab based on her age and

disability. This matter was resolved through conciliation where respondent agreed to provide training to managers, and pay damages and attorney fees.

**Age/Disability/National Origin**
***Ortiz v. Trans Inn Management*** (56350) - Ortiz, an individual with a disability, was born in Ecuador in 1957. The Department issued a probable cause determination after an investigation showed the respondent subjected Ortiz to mocking of his accent, referring to him as "old man," was hostile to his health-related needs, and did not reasonably accommodate his disability.

**Age/Disability/Reprisal**
***Todd v. Push Pedal Pull*** (60601) - Todd, a 72 year-old male with a disability, was employed by respondent. The Department issued a probable cause finding when the investigation found the workplace was permeated with discriminatory intimidation, ridicule, and insults related to Todd's age. The Department's investigation also found Todd's disability was a factor in his treatment by the respondent and that the respondent terminated Todd after he complained of discrimination.

**Age/Race**
***Warren v. Royal Sales Inc.*** (58172) - Warren, whose father is black, was subjected to racial slurs and use of the word "nigger" in the workplace by respondent's two managers. The Department's investigation found witness evidence supported that this behavior took place as well as comments about the charging party's skin color. Witnesses stated that respondent's two managers repeatedly referred to the charging party as "old," "washed-up," "old man," and "a guy your age," and that respondent did nothing to stop the harassment. This matter was resolved through conciliation where respondent agreed to provide training to its managers, and pay damages and attorney fees.

**Color/National Origin/Race**
***Mebrahtu v. Starbucks Coffee, Co.*** – Mebrahtu, an individual of Ethiopian ancestry and the sole African-American employee, was terminated for alleged theft. Starbucks has a policy that allows employees to provide discounts and offer free coffee/pastries to address issues of concerns with customers. The Department found that Mebrahtu was treated differently from her non-black, non-African born coworkers when she was terminated for providing discounts to customers. Settlement provisions beyond damages to Mebrahtu included training Starbucks managerial employees.

**Disability**
***Biggar v. Tadd's Lighthouse*** – Tadd's Lighthouse suspended Biggar without pay while it waited for confirmation that Biggar's medical condition did not pose a risk to clients. Biggar sought to work with clients in which Tadd's Lighthouse didn't have safety concerns. The employer refused to provide Biggar with any work during her five-day administrative suspension. In conciliating the matter, Tadd's Lighthouse agreed to pay Biggar damages and provide training on reasonable accommodations to management and supervisory employees.

***Evans v. Valley View Manor*** – Evans and Valley View agreed that she was an individual with a disability and that she should be provided with accommodations concerning the number of

days she could work in a row and the number of hours that she could work in a day. The Department investigated how Valley View accommodated Evans and found several instances in which Valley View knowingly failed to accommodate Evans. The Department conciliated the matter and Valley View agreed to pay damages to Evans and provide training to its managerial and supervisory staff concerning reasonable accommodations.

***Pearson v. Donaldson Co, Inc.*** – Pearson, an individual with a disability, informed Donaldson that he required surgery and that he would have lifting restrictions upon his return. Pearson was allowed to take a leave of absence but was immediately terminated upon his return. The Department concluded that Pearson was terminated because Donaldson did not wish to provide accommodations to Pearson. The dispute was settled with Donaldson agreeing to provide training to managerial and supervisory employees and pay damages to Pearson.

***Staege v. One-Stop Food and Fuel*** – One-Stop was informed by one of Staege's co-workers about alleged medical information concerning Staege. As a result of receiving the information, One-Stop suspended Staege and requested that she provide documentation from her treating physician about her ability to work. The Department found that One-Stop's request and actions to suspend Staege supported a finding of probable cause. One-Stop agreed to train managerial and supervisory staff, pay damages and attorney's fees.

***Gardner v. Southwestern Minnesota Opportunity Council, Inc.*** (60802) - Gardner, who has a disability, was a part-time teacher's aide with respondent. The respondent had previously accommodated the charging party's disability by having additional staff members in the classroom. The respondent stated it terminated the charging party because of a substantial budget shortfall; however, the Department's investigation found the respondent's treatment of Gardner was motivated by her disability. This matter was resolved through conciliation where the respondent agreed to provide training to its executive director and department heads; pay damages to the charging party; make payment to State of Minnesota; provide a written apology to the charging party; and sign a nondisparagement agreement.

***Peters v. 4Staffing, Inc.*** (59663) - The charging party experienced disability-related issues and submitted a doctor's note requesting changes to her work environment. At a meeting where the work environment changes were made, the respondent issued a written warning, which detailed absences. The Department's investigation found that the absences should have been excused and that the respondent's actions were pretext. This matter was resolved through conciliation where the respondent paid damages and attorney fees, made a payment to State of Minnesota, and the parties agreed to a non-disparagement agreement.

***Randall v. Hospitality Investors LLC*** (59092) - The respondent hired a new general manager and instituted changes to housekeepers' duties. Randall was terminated for alleged performance issues related to the new standards. The Department's investigation however found that the documentation in the respondent's management file suggested it was motivated by the charging party's disability. This matter was resolved through conciliation where respondent agreed to provide training to all management and supervisory employees and pay damages and attorney fees.

***Kortekaas v. AmericInn/Grand Rapids*** (59807) - During orientation, the charging party asked if she could bring in her own chair to prevent soreness arising from a medical condition. The next day, the respondent told the charging party not to return. The Department's investigation found the respondent perceived the charging party to be disabled and as a result of that perception, terminated the charging party. This matter was resolved through conciliation where respondent agreed to provide training to all employees and pay damages.

***Tomsen v. LG Electronics Alabama, Inc.*** (59931) - The charging party, and the employee of respondent, began leave for a disability-based surgery and received short-term disability benefits. The charging party gave notice to respondent that he would undergo a second disability-related surgery; the respondent's benefits specialist sent the charging party long-term disability benefit application forms. The charging party was terminated prior to being medically released to return to work. This matter was resolved through conciliation where respondent agreed to provide training and pay damages.

***Johnson v. Shapiro & Zielke LLP*** (58466) - The charging party, a female with a disability, requested a modified work schedule for one week. The respondent denied the request despite the charging party submitting a note from her doctor. The respondent shortly thereafter terminated Johnson. The Department conducted an investigation and found in favor of Johnson, in part, because discussion of her performance began with her accommodation request. This matter was resolved through conciliation where the respondent agreed to provide training to managers and pay damages.

***Morse v. Career Education Corporation*** (51496) - Morse, a now deceased man who had cancer, was employed as a teacher by respondent. On July 3, 2007, Morse, formerly employed as a teacher, took FMLA leave with an "unknown" return date to begin chemotherapy. Respondent did not schedule Morse to teach in the Fall 2007 term. Although Morse remained in contact with respondent during his leave, he was terminated in November 2007 because he was unable to provide the respondent an estimated return to work date. The Department's investigation found that the respondent had a history of permitting employee leave periods of seven months or more and Morse's disability was clearly a factor in his termination of employment. This matter was resolved through conciliation where the respondent agreed to provide training, develop and revise policies, and pay damages.

***Kral v. Agro Resources LLC*** (53203) - Kral, who was regarded as having a disability, was employed by the respondent. The Department's investigation found the respondent did not move to terminate Kral until after Kral experienced side effects from treatment of her medical condition. This matter was resolved through conciliation where respondent agreed to provide training, develop and revise policies, and pay damages.

***Rotert v. Timber Lake Lodge*** (53952) - Rotert, who has a disability, was employed by the respondent. The respondent had previously granted Rotert's reasonable accommodation of periodically sitting. The Department found that respondent's reason for Rotert's termination was pretext, in part, because the termination letter directly referenced the charging party's health as a factor in its decision-making. This matter was resolved through conciliation.

***Ocampo v. Pioneer Paper Stock*** (61215) – Ocampo requested a leave of absence from Pioneer Paper as a reasonable accommodation. When Ocampo sought to return back to work, he

was terminated for failing to keep Pioneer Paper apprised as to the date of his return. Ocampo produced documentation of his efforts to communicate with the Pioneer Paper. Pioneer Paper was unable to produce any documentation to the Department of its efforts to communicate with Ocampo. The Department concluded that there was sufficient evidence to support a finding of probable cause against Pioneer Paper.

***Nuux v. Septran, Inc.*** (59504) – Nuux and Septran agreed to an accommodation in which Nuux was allowed to work part-time four days a week. When a coworker quit, Septran terminated Nuux informing him that he could no longer be accommodated as working 8-hour days was an essential function of the job. The Department issued a probable cause determination upon finding that Septran engaged in no interactive process with Nuux to determine if it could accommodate him.

***Woolison v. S&L Trendz Inc.*** (60995) - Woolison worked for the respondent and made a reasonable accommodation request to sit during work due to her disability. The Department issued a probable cause determination finding that respondent did not allow Woolison to use a stool and failed to provide a reasonable accommodation.

***Heitman v. AFSCME Council #5*** (60290) - Heitman, while working for the respondent, was denied a reasonable accommodation request to return to work on a part-time basis after being away from work under a Family Medical Leave Act request. In accordance with respondent's collective bargaining agreement, Heitman was placed on long-term disability for six months. The Department issued a probable cause determination when its investigation found the respondent's denial of Heitman's request for a one- or two-week extension of her six-month leave to get the required paperwork was pretext.

***White v. Goodrich Sensors and Integrated Systems*** (60346) - White, a person with a disability, was employed by the respondent. After a leave due to her disability, White submitted a request, supported by her physician, for an accommodation. White did not return to work. The respondent claimed White's position was eliminated due to a company-wide reduction. The Department issued a probable cause determination after the investigation found White was the only employee terminated.

***Linder v. CF Industries Inc.*** (56994) - Linder, an employee of respondent, underwent surgery, and returned with permanent disability-related restrictions. After reviewing Linder's doctor's statement, the respondent sent Linder a letter stating that because of his permanent restrictions, he was unable to perform the essential functions of the job because he could not perform all 73 specific job functions at any given time. The Department's investigation found of the 73 specific job functions, Linder could not perform 7 functions, the 7 functions were nonessential functions, and were rarely performed by Linder. The Department issued a probable cause determination because of respondent's failure to reasonably accommodate Linder.

***Mosser v. Staples Enterprises Inc.*** (58741) - Mosser suffered an on the job injury, which the respondent attributed to Mosser's disability. Respondent terminated Mosser during a staffing consolidation. The Department issued a probable cause determination after the investigation revealed Mosser was the only employee terminated during the consolidation and the action was motivated by Mosser's disability.

***Star v. Goodrich Corp.*** (56344) - Star, who has a disability, was employed by the respondent. The respondent was to perform an ergonomic evaluation for Star's workspace but did not. Star hired his own consultant who recommended numerous reasonable accommodations. The respondent then hired its own consultant who recommended some of the same reasonable accommodations. Star was discharged without the respondent providing any reasonable accommodation. The Department issued a probable cause determination for failure to reasonably accommodate Star.

***McPeck v. County of Steele*** (56049) - McPeck, who has a disability, applied for a corrections officer position with the respondent. During an interview with respondent, McPeck disclosed information regarding medical treatment which was then discussed with respondent's health services coordinator. After submitting the medical information McPeck was notified he would no longer be considered for the position. The Department issued a probable cause determination after finding the respondent took into account McPeck's medical information in rejecting McPeck's candidacy.

***Brooks v. Municipal Building Commission*** (55667) - Brooks, an individual with various disabilities, submitted a doctor's note indicating she would be unable to work for 20 days. The Department issued a probable cause determination after evidence indicated the respondent responded to the doctor's note by terminating Brooks a week later.

***Witkowski v. DNK Management*** (55459) & ***Witkowski v. Apogee Retail LLC*** (55459) - The Department issued a probable cause determination when evidence showed the respondent refused to grant the charging party's request to use the nearest restroom (which was being worked on at the time), failed to make available other restrooms located elsewhere in the building, and failed to accommodate the charging party's disability.

***Grant v. Best Buy Co. Inc.*** (55241) - The Department issued a probable cause determination after evidence established the respondent's manager viewed Grant's 400 lb. weight to be a disabling physical impairment and decided to terminate him after determining that he might have a heart attack in the course of performing his everyday work duties.

***Phillips v. UGL Unicco*** (56196) - Phillips was regarded as having a disability and was not allowed to return to work with restrictions. The Department issued a probable cause determination after evidence showed Phillips' perceived disability was a factor in respondent's termination of Phillips' employment. Under the Act, the definition of a disabled person includes not only any person who has a physical, sensory, or mental impairment that materially limits one or more major life activities, but "any person who… is regarded as having such an impairment."

**Disability/Gender**

***Makepeace v. SSD #1*** (54304) - Makepeace, who has a disability, was employed by respondent. Respondent denied two leave requests and short-term disability benefits related to her disability. Makepeace also complained of sexual harassment by male students but respondent did not take appropriate remedial action. This matter was resolved through conciliation where the respondent agreed to review and revise its written policies and regulations,

provide training for principals and human resources personnel, reinstate Makepeace to be eligible to bid for open positions, and pay damages and attorney fees.

**Disability/Reprisal**

***Goetzman v. University of Minnesota*** (56525) - Goetzman, who has a disability, was employed by respondent with an annually renewable position. After Goetzman made discrimination allegations, she started FMLA leave. Three days later, she received a letter from the respondent stating her work hours would be revised and that her appointment would not be renewed. The Department issued a probable cause determination after investigation concluded the respondent refused to reasonably accommodate Goetzman based on disability and found there was a causal connection between the discrimination complaint and her termination.

***Hinrichs v. Alexandria Light and Power*** (57962) - During his employment, the charging party had his right leg amputated just below the knee. After surgery, but before the charging party returned to work, the respondent gave the charging party a revised job description, which included the requirement to lift 50 lbs, climb ladders, and crawl into tight spaces. The charging party's attorney sent a letter to respondent requesting removal of certain elements from the revised job description. Several months after the charging party returned to work, he received a warning letter stating the respondent's general manager would be monitoring his work performance. The Department's investigation found the respondent's general manager sought to embarrass Hinrichs and that the respondent's actions were pretext. This matter was resolved through conciliation where respondent agreed to provide training to all its management and supervisory employees and pay damages and attorney fees to the charging party.

**Gender**

***Hedtke v. Lapham-Hickey Steel*** – Lapham terminated Hedtke's employment for performance related issues. Hedtke claimed that male employees who engaged in similar conduct were allowed to remain employed by Lapham. The Department investigated and found that two male supervisors had more significant documented performance concerns than Hedtke yet were not terminated. The Department negotiated a settlement with Lapham in which it was required to pay damages to Hedtke and provide training to managerial and supervisory staff.

***Christoph v. City of Preston*** – Christoph applied for a promotion to an ambulance director for which she met the qualifications for the position. The male candidate that was hired by the City of Preston did not meet the minimum qualifications for the job. The Department's investigation of the hiring decision revealed that the decision makers believed Christoph was "small and d[id] not appear muscular enough" for the position. The City of Preston agreed to pay damages, attorney fees and train its managerial and supervisory staff.

***Spinler (fka Camp) v. Lake Superior Laundry*** (61704) – The charging party is a female who was employed by respondent. She was subjected to repeated sexist insults, slurs, name-calling and physical aggression by a male coworker. The Department's investigation found the charging party was subjected to a hostile work environment based upon her sex and was constructively discharged. This matter was resolved through conciliation where the respondent agreed to provide training to all of its management and supervisory employees,

review and revise its written policies, and pay damages and attorney fees to the charging party.

***Howard v. Taco John's of Savage*** (60335) - Howard is a female who worked part time for the respondent where she was sexually harassed by a male manager who made comments of a sexual nature and slapped her on her buttocks. The male manager admitted to subjecting the charging party to sexual harassment and creating a hostile work environment. This matter was resolved through conciliation.

***Zaudtke v. Pino's Pizza and Pasta*** (58675) - Zaudtke, a female, responded to the respondent's Craigslist advertisement for a delivery driver. The respondent told the charging party, "We only hire men." The female Department investigator posing as an applicant was similarly told, "I look for guys, sorry," when she called about the ad. This matter was resolved though conciliation where the respondent agreed to provide training, develop or review and revise its policies, pay damages, and apologize.

***O'Brien v. Kernz and Kompany*** (55060) - O'Brien, a female, was employed by the respondent and directly supervised by the respondent's owner. The respondent's owner engaged in intolerable sexual harassment, which caused O'Brien to resign. The Department found the respondent's behavior to be so severe that it concluded that O'Brien was constructively discharged from her position. This matter was resolved through conciliation. (Companion case to *Holst v. Kernz and Kompany* (56315))

***Holst v. Kernz and Kompany*** (56315) - Holst, a female, was employed by the respondent and directly supervised by the respondent's male owner. The respondent's owner engaged in intolerable sexual harassment, which caused Holst to resign. The Department found the respondent's behavior to be so severe that it concluded that Holst was constructively discharged from her position. This matter was resolved through conciliation. (Companion case to *O'Brien v. Kernz and Kompany* (55060))

***Wessels v. Schieks Palace Royale*** (55016) & *Henderson v. Schieks Palace Royale* (55014) - Wessels, a female, was subjected to ongoing sexual harassment of a verbal and physical nature by her male supervisor. The Department issued a probable cause determination after evidence showed the respondent did not take reasonable care to prevent and correct the harassing behavior of the supervisor.

***Wood v. MN Dept of Corrections*** (54340) - The Department issued a probable cause determination when the investigation found Wood, a female, was denied adequate access to squad training. The denial of access to squad training had a detrimental impact on Wood's ability to progress within the Department.

**Gender/Reprisal**

***Altenburg v. Jack Links Beef Jerky*** (61537) - Altenburg, a female, was employed by the respondent. The charging party worked with a male supervisor who created a sexually hostile working environment. The charging party complained, which resulted in the supervisor being given a written warning. Two weeks later, the supervisor was promoted to the charging party's direct supervisor. The Department's investigation found the charging party was subjected to a hostile work environment based on her sex, reprisal, and construc-

tive discharge. This matter was resolved through conciliation where respondent agreed to provide training for managerial and supervisory employees and pay damages to charging party.

***Koepsell v. Booze Mart*** (58919) - The charging party was employed by the respondent. The respondent cited failure to report for assigned work hours as the cause for Koepsell's termination. The Department's investigation found the son of the respondent's owner, who was responsible for creating the work schedule, told the charging party there was no need for Koepsell to work during the specified time. The investigation found that the respondent's son made the false statement to Koepsell with the intention that the general manager would fire him. The investigation also found that the son of the respondent's owner talked negatively about the charging party in the workplace and made a wide array of claims, including an allegation that he and the charging party were in a romantic/sexual relationship. This matter was resolved through conciliation where the respondent agreed to provide training to all management and supervisory employees, pay damages, and make payment to the State of Minnesota.

***LeClaire v. Brian Fanfulik/Liquor Pig*** (59851) - The charging party, a female employee, was subjected to unwelcome sexual comments and gestures evocative of sexual acts by the respondent's male owner. In response to the charging party complaining of sexual harassment, the respondent's owner was recorded saying, "If you bring that bullshit up, you're getting the fucking stealing charge against ya." The "stealing charge" was a reference to the contention of respondent's owner that the charging party took inappropriately long breaks. This matter was resolved through conciliation where the respondent agreed to provide training to management, pay damages and pay attorney fees.

***Vohs v. Border Foods dba Taco Bell*** (60067) - Vohs, a recent female high school graduate, was subjected to ongoing sexual harassment including being inappropriately touched by respondent's manager and being called a "slut" and "easy." Vohs complained and an investigation was conducted by the respondent. After the internal investigation, Vohs complained her work environment had not improved. The respondent failed to conduct a follow up investigation. Vohs left the respondent to attend college. When Vohs returned during winter break, she inquired with the respondent about available hours. The Department's investigation found that the respondent retaliated against Vohs in failing to schedule her during winter break and failing to properly address the sexually hostile work environment by conducting a thorough investigation. This matter was resolved through conciliation in which the respondent agreed to pay damages and provide training to staff.

***Murphy v. University of Minnesota, Duluth*** (55463) - Murphy, a female student fitness instructor at respondent's Fitness and Wellness Center, was sexually harassed by her male supervisor during her employment. Murphy reported her supervisor's comments to the director of the respondent's Office of Equal Opportunity. The Department's investigation found that during the OEO director's investigation, Murphy's supervisor began to retaliate against her by intimidating and harassing her. This matter was resolved though conciliation where the respondent agreed to reexamine its policies and procedures regarding sexual harassment and reprisal, provide training, and pay damages and attorney fees.

***Bennett v. Schieks Palace Royale*** (55011) - Bennett, a female, was subjected to unwelcome sexual comments and groping by her male supervisor. The respondent terminated Bennett after complaints of sexual harassment were brought against the supervisor. The Department issued a probable cause determination after evidence showed the respondent failed to promptly intervene to stop the sexual harassment and there was evidence to support that her termination was in retaliation for the complaints she filed.

**National Origin**

***Olson v. Shakopee Valley II LLC*** (59499) - Olson, an American-born Caucasian female, was an employed as head housekeeper at respondent's Shakopee location. Olson requested to switch from head housekeeper to housekeeper and the respondent granted this request. Olson's replacement was of Mexican descent. After Olson returned from vacation, the respondent refused to schedule Olson and the respondent scheduled only employees of Mexican descent for housekeeping duties. The Department issued a probable cause determination.

**Pregnancy**

***Rugel v. West Side Community Health Services*** – Rugel and West Side agreed to a date that she would be on medical leave due to the birth of her child. They agreed upon a plan, however, the plan needed to be changed when Rugel went into labor a few days ahead of the agreed upon the FMLA date. Instead of accommodating Rugel, West Side terminated her for performance problems. The Department found that West Side's decision to terminate Rugel was not legitimate. West Side agreed to provide training to managerial and supervisory employees, remove references concerning Rugel's job performance, provide neutral job references, and pay damages to Rugel.

***Brown v. Community Living Options*** (60785) - Brown, a pregnant woman, was a certified nursing assistant with respondent. She provided a doctor's note with a lifting restriction and a request for light duty or reassignment. The same day that Brown made this request, she was terminated. This matter was resolved through conciliation where respondent agreed to provide training to all management and supervisory employee, and pay damages to Brown.

***Moravitz v. Goodwill*** **(**60077) - Moravitz, a then pregnant female, interviewed for a sales clerk position with respondent but was not offered a job. During the interview, the charging party and the respondent's supervisor discussed her pregnancy and how long she would need for maternity leave. This matter was resolved through conciliation where the respondent agreed to provide training to all its management and supervisory employees, review its policies and procedures, and pay damages and attorney fees.

***Schwartz v. Chuck and Don's Pet Food Outlet*** (57805) - The charging party notified her employer, the respondent, she was pregnant and anticipated taking four weeks off after giving birth. The respondent initially approved this request but then changed its position. The respondent notified the charging party she was not eligible for leave and she would have to either quit or be terminated due to her pregnancy; there was no interactive process. The respondent confirmed they were able to provide medical leave for other employees, some similarly-situated, during the charging party's employment without any undue hardship. This matter was resolved through conciliation where respondent agreed to provide training and pay damages.

***Keenan v. Catholic Charities*** (54160) - The charging party notified her employer she was pregnant and anticipated taking seven weeks of leave following the birth of her child. Keenan was hospitalized due to pregnancy-related complications and remained on bed rest until after her child was born. The respondent was able to accommodate Keenan for six weeks, until after the birth of her child in late May. After giving birth, the respondent notified Keenan she would be terminated if she did not return by June 5. Pursuant to a doctor's note, Keenan did not return to work by June 5 and was terminated. The termination of Keenan's employment was effectively an unreasonable denial of the continuation of a reasonable accommodation. This matter was resolved through conciliation where respondent agreed to provide training to its managers, and pay damages.

***Kent v. Schwieters Automotive Group Ltd.*** (56104) - Kent, a pregnant full-time employee, was put on bed rest and medical leave. In discussing her return, the respondent offered her a part time position with a less desirable schedule, fewer hours, and less pay citing poor performance issues. The Department's investigation found no evidence to show the respondent gave Kent reasonable opportunity to work out the alleged performance issues prior to her maternity leave or upon her return. The Department's investigation found the respondent "set the charging party up to quit." This matter was resolved through conciliation.

***Munsch v. Kristen Stebbins Insurance Inc.*** (59156) - Munsch was employed by the respondent when she became pregnant. Munsch needed pregnancy-related time off but the respondent denied the request. The Department issued a probable cause determination after finding that the denial of Munsch's accommodation requests was unreasonable and that it was reasonably foreseeable that Munsch would resign rather than choose between missing (pregnancy-related) appointments and subsequently being fired.

**Pregnancy/Reprisal**

***Manning v. Travelon Transportation*** (57479) - About a week after the charging party disclosed that she was pregnant, respondent owner advised the charging party her pay was being cut by $2 an hour and that respondent would stop paying for her benefits effective immediately. The following week, respondent owner announced his plan to cut her pay again. Shortly after, the charging party's then-attorney emailed respondent contending respondent was discriminating against the charging party. Three days later, respondent's vice president informed charging party that she no longer needed to come to work and that she would be contacted in the future if respondent had a need for her services. The charging party was not contacted again. This matter was resolved through conciliation where respondent agreed to provide training to its managers and pay damages.

**Race**

***Jackson v. Xcel Energy*** (58383) - Jackson was employed by the respondent and worked on a crew where he was subjected to racially offensive comments and text messages from other crew members. The racially motivated harassment continued even though the general foreman and foreman on the crew were made aware of the harassment. This matter was resolved through conciliation where respondent agreed to provide training to its managers and pay damages.

***Johnson v. Master Cuts*** (60076) – Johnson was employed as the sole African-American hair stylist. Master Cuts terminated Johnson on the basis of receiving three customer complaints against her. The Department's investigation revealed that similarly situated non-African-American hair stylists were not terminated or reprimanded for similar such complaints.

**Race/National Origin/Reprisal**

***Tantoh v. Copperfield Hill Customized Senior Living*** (55582) - Tantoh, an African female from Cameroon, was employed by the respondent. Tantoh's schedule, along with other African full-time employees', began to have the number of scheduled hours cut. The Department issued a probable cause determination after investigation showed Tantoh was terminated two weeks after she submitted written complaints about the reduction in her hours.

**Race/Reprisal**

***Woube v. Wal-Mart Stores, Inc.*** (59285) – Woube filed a complaint with a Wal-Mart security guard that someone had left a note containing a racial epitaph on his car. Wal-Mart terminated Woube for "falsification of employment documents" the following month. The Department initiated an investigation and found that no action was taken to investigate Woube's complaint. The Department issued a probable cause determination when Wal-Mart failed to produce documentation to support its decision to terminate Woube for falsifying documents.

**Religion**

***Spencer v. Nerness Services Inc. 93 (World Manufacturing Corporation)*** (56948) - Spencer worked for the respondent whom played Christian music, would discuss religion, and have prayer times every Monday and Friday morning, which included the office staff, within the workplace. Witnesses stated the respondent gave employees four radio stations they were allowed to listen to, all four were Christian stations, and employees were made to sit in when the respondent would approach to pray. Witnesses also stated that when office staff would ask to get off work early to attend a religious ceremony on holy days, the respondent would specifically have projects that would make them stay late at work that evening. The Department's investigation found that the respondent created a hostile work environment for the charging party due to religion. This matter was resolved through conciliation where the respondent agreed to provide training to its managers and pay damages.

***Broze v. Cherne Industries*** (55220) - The respondent changed its dress code to include an absolute ban on necklaces except for medical alert necklaces on breakaway chains. Broze sought clarification as he requested to continue to wear his Mogen David (Star of David) necklace. The Department's investigation found that on the same morning Broze stated he agreed to take off his necklace; he was terminated without consideration for a religious accommodation. This matter was resolved through conciliation.

***Reyes v. Everetts Foods Inc.*** (62529) - Reyes is a Jehovah's Witness who was employed by the respondent. The respondent began to staff employees on Sundays, which was previously not done. This conflicted with Reyes' religious worship. The Department issued a probable cause determination after investigation found the respondent terminated Reyes for religious discrimination when the respondent refused to provide Reyes a reasonable accommodation.

**Reprisal**

***McKiver v. First Resource Bank*** (56010) - The charging party made an internal complaint claiming sexual harassment by the President/CEO in late September. In late October, the charging party was terminated. The Department's investigation found there was sufficient evidence to support a probable cause finding of discrimination, in part, because of the short time frame between the charging party's internal sexual harassment complaint and her termination. This matter was resolved through conciliation where the respondent agreed to pay damages and attorney fees.

***Jacques v. Ridgeview Homeowners Association*** (55292) - Jacques reported an employee's discrimination complaint and supported the employee. The Department issued a probable cause determination when evidence substantiated a causal connection between Jacques protected conduct and the adverse action of Jacques' termination.

***Reilley v. SterilMed Inc.*** (55142) - Reilley complained about sexual harassment. The Department issued a probable cause determination after the Department's investigation found Reilley's subsequent demotion was in retaliation for her complaints of sexual harassment.

**Reprisal/Gender**

***Acker v. Environmental Resources*** (57814) – Acker filed an internal sexual harassment complaint with Environmental Resources. Shortly after Acker filed her complaint, Environmental Resources placed her on a performance improvement plan by the alleged harasser and was terminated two months later. The Department investigated the underlying complaint and whether she was retaliated against for filing her complaint. The Department issued a no probable cause determination concerning her sexual harassment complaint. However, the Department issued a probable cause determination concerning retaliation finding that the circumstance of her termination was not legitimate.

***Tangen v. Mad Jack's Sports Café*** – Tangen filed a sexual harassment complaint, on her behalf and other female employees, with her employer. Mad Jack's terminated the charging party on the premise that Tangen was trying to coerce employees to complain in bad faith about a supervisor during Mad Jack's investigation of her complaint. The Department investigated the circumstances and found that Tangen was terminated for filing her sexual harassment complaint. Mad Jack's agreed to apologize to Tangen, pay damages and provide training to its management and supervisory staff.

***B.R. v. Electro Static Corp.*** (58979) - The respondent's supervisor, a male, made inappropriate sexual comments to and physically touched the charging party. The charging party, an undocumented worker, informed him his conduct was unwelcome. The respondent's supervisor persisted and took photos of the charging party over her objection; pulled up her blouse; asked her to show him her underwear; pretended to unzip his pants in the charging party's face while she was working on her knees; and drove past her home and attempted to enter when her husband wasn't home. The charging party stopped speaking to the respondent and sought to avoid all contact with him. The respondent's supervisor immediately began to become critical of all aspects of her work performance. The charging party was then informed by the respondent's Vice-President that her employment was being terminated because of her supervisor's complaints. The matter was resolved through

conciliation. The Department's investigation found a sexually hostile working environment and retaliation by the manager as a result of B.R. rejecting his sexual advances.

**Reprisal/Gender/Race**

***Grygelko v. Triple-N Construction Inc.*** (61766) - The charging party, a Native American female, filed an internal complaint of sexual harassment against her male supervisor. The Department's investigation found the respondent knew of the supervisor's behavior, but was unwilling to receive or investigate a claim of sexual harassment. The Department also found the charging party was paid significantly less than similarly situated males. The Department also found it reasonable to believe the charging party's race was a contributing factor in the hostile work environment. This matter was resolved through conciliation where the respondent agreed to training for all management and supervisory employees, implement written policies, make payment to the state of Minnesota, pay damages and attorney fees to the charging party, a nondisparagement agreement, purging the charging party's personnel file of all references to her being terminated, and providing a neutral employment reference.

**Reprisal/Race**

***Hassan v. Sherman Associates, Inc.*** (57945) – Hassan, a black Muslim male of Ethiopian ancestry, filed a complaint with management of Sherman Associates stating that he was being subjected to a hostile environment based upon his race and religion. Sherman Associates took prompt remedial measures in responding to Hassan's complaint. Sherman Associates also demoted Hassan for performance related concerns shortly after Hassan filed his complaint. The Department found that Hassan's demotion was pretext for demoting him for filing a hostile environment complaint. Sherman Associates negotiated a settlement agreement with the Department in which it agreed to provide training to its supervisors and managers; a separate settlement agreement was negotiated between Hassan's attorney and Sherman Associates.

## Real Property

**Disability**

***McCarthy v. West Oak Condominium Association, Inc.*** – The charging party, an individual who uses a wheelchair, was fined by his condominium association for accepting deliveries at the front entrance of his condominium. The charging party had sought an accommodation to use the front entrance as he had difficulty accessing the rear entrance. The Department's investigation revealed that the requested accommodation was reasonable and the respondent couldn't establish undue burden that accepting deliveries would damage the common area. The respondent agreed to the accommodation, rescind the fine, pay damages and issue a credit to the charging party for his association fee.

***McConnell v. Camelot Condominium Homes of Luverne*** (62699) - The charging party owns a condominium managed by the respondent. The charging party's psychiatrist submitted a letter to the respondent stating McConnell required an emotional support animal. The request was improperly denied by the respondent. This matter was resolved through conciliation where the respondent agreed to provide training to managerial and supervisory employee, update its condominium declaration and rules and regulations, and pay damages to the charging party.

***Manz v. Rieck's Property Management*** (62828) - Manz rented a unit managed by the respondent. Manz provided the respondent a doctor's note requesting a reasonable accommodation by having a therapeutic dog. The respondent unreasonably refused to allow a dog at the residence. This matter was resolved through conciliation where the respondent agreed to provide training to management and supervisory employees, pay damages to the charging party, and a nondisparagement agreement.

***Mboh v. Azure Properties*** (61743) - Mboh is a female with a disability who rented property from the respondent along with her daughter. Mboh's daughter requested an accommodation for an assistance animal, which the respondent granted. When Mboh's daughter moved out, Mboh requested an accommodation for the service animal. The respondent notified Mboh the dog's continued presence was a lease violation. The Department's investigation found the charging party's request from her physician was reasonable. This matter was resolved through conciliation where the respondent agreed to pay damages to the charging party.

***Shackle v. Waters Edge Townhomes*** (55161) - Schackle, a tenant with a disability, requested a reasonable accommodation to adjust the respondent's policy for collecting rent on the first day of the month to the fifteenth day, after his disability benefits check arrived. This request had previously been granted by a property manager, but was denied under a new property manager. The matter was resolved through conciliation where the respondent agreed to reexamine its policies and procedures, provide training, display the Department's poster "Housing Discrimination is Illegal in Minnesota," and pay damages.

**Disability/Reprisal**

***Samaray v. AMC Properties*** (62609) - The charging party was a tenant with a disability in a property owned by AMC. The Department issued a probable cause determination after the

investigation found the respondent refused to provide the reasonable accommodation of a reserved parking space, refused to allow the charging party to make modifications so her bathroom was more accessible, and refused to renew her lease in reprisal for her requests for reasonable accommodation.

**Familial Status**

***Schneider v. Stenzel*** – Stenzel rents a four-bedroom home in which one of the bedrooms is on the top level of the home and has a fire access door to a staircase which extends to the first floor rooftop of the home. When Schneider contacted Stenzel about renting the room, Stenzel declined to show the room to Schneider the room because of her concerns related to the safety of Schneider's young children. The Department negotiated a settlement between the parties during conciliation.

***Upton v. James Lopesio & Cathy Lopesio*** (60452) - Upton, who has a minor child, contacted the respondents with interest in renting a property. During the initial phone call, the respondent's wife asked Upton how many people would be occupying the unit, Upton stated herself and her child. Upton was then told the respondents would be in contact; the respondents did not follow up. Upton had an acquaintance contact the respondents. During this phone call, the acquaintance agreed to a time for a showing with the respondent's wife, but when the acquaintance stated a child would also be living at the property, the respondent's wife stated she did not know if the respondent, her husband, would be available (at the previously agreed to time) for a showing. The Department's investigation found the weight of the evidence supports the charging party's allegations. This matter was resolved through conciliation where the parties agreed to a non-disparagement clause, and the respondent agreed to pay damages to the charging party.

**Gender**

***Scott v. Trilogy Properties of MN LLC*** (61520) - Scott, a female, was a tenant at the respondent's property. At the time of signing the lease, the respondent knew Scott was employed as an exotic dancer. The Department determined the respondent requested a "lap dance" from the charging party in order to allow her more time to pay her rent. The Department's investigation found the respondent had engaged in quid pro quo sexual harassment in asking for the "lap dance" and retaliated against Scott for turning down the respondent's sexual advances. This matter was resolved through conciliation where the respondent agreed to pay damages to the charging party; waive the charging party's outstanding fees, provide the charging party with a neutral rental reference, provide training to employees, and implement written policies addressing fair housing obligations.

***Perry v. All American Realty, Inc.*** *(54284)* - The charging party was a tenant in a property owned by the respondent. The Department issued a probable cause determination upon finding the charging party was subjected to unwanted sexual conduct and sexual advances by the male property owner.

**Public Assistance**

***Demydowich v. Drury Family Limited Partnership*** (61092) - The charging party was seeking emergency public assistance to help cover the cost of the security deposit in order to lease a property owned by the respondent. Although the charging party and the respondent signed a lease agreement, the agreement was rescinded after the respondent spoke with Fillmore

County Human Services. The Department's investigation found the respondent's decision not to rent the property to the charging party was because of her public assistance status. This matter was resolved through conciliation where the respondent agreed to provide a written apology and pay damages to the charging party.

**Sexual Orientation**

***Green v. Karma Construction*** (61147) - Green is a gay male who attempted to rent a room in a house owned by the respondent. While scheduling a viewing, Green asked if the property was "gay friendly." A few minutes later the owner called Green back, said he spoke with the renters and told Green the property was "not gay friendly." A viewing of the property never took place. This matter was resolved through conciliation where the respondent agreed to pay damages and attorney fees to Green.

## Public Accommodation

**Disability**

***Macziewski v. New Hong Kong Buffet*** (58171) – Macziewski, who has a service animal to assist her, entered the restaurant to dine with several friends and her son. The restaurant immediately told Macziewski that her service animal could not be in the restaurant. When Macziewski indicated that she needed the dog, the restaurant indicated that they would be willing to allow her to bring the dog into the restaurant but only if the dog remained under her table. The Department negotiated a settlement under its rocket docket program in which the restaurant agreed to provide complimentary meals to Macziewksi's family.

***Callant v. Ocean Buffet*** (62829) - The charging party, who requires use of a service animal, went to the respondent to eat with a friend. The restaurant owner stated the dog would need to remain in the car. The charging party provided the owner information regarding the service animal. However, the owner still refused to allow the charging party to enter. This matter was resolved through conciliation where the respondent agreed to provide training to employees and posting signage that service animals are welcome.

***Hemesath v. Granny Donuts, Inc.*** (62720) - Hemesath has a disability which requires her to use a service dog. Hemesath went to the respondent's shop to purchase doughnuts but was told her service dog was not allowed in the shop. This matter was resolved through conciliation where the respondent agreed to provide training to all of its management and supervisory employees and pay damages to the charging party.

***Flom v. Super 8 Hotel d/b/a Shamrock Inn*** (60650) - Flom has a disability which requires her to use a service animal. While staying an evening at the respondent's property, Flom was charged a fee directly related to her having a service animal. This matter was resolved through conciliation where the respondent agreed to provide training to all of its employees and pay damages to the charging party.

***Touchstone v. Twin Cities RISE*** (58840) - The charging party's application to enroll in one of the respondent's job-training programs was denied after discovering he was on medication for a disability. The information was discovered by the respondent through an illegal inquiry on its standard application form. Although the charging party and the respondent were

unsuccessful in conciliation, the respondent and the Department reached an agreement in which the respondent agreed to provide training to its managers and revise all program application forms.

***Hughes v. Greyhound Lines, Inc.*** (57208) - Hughes, who uses a wheelchair for mobility, contacted the respondent's Travel Assistance Line to arrange for a bus with a wheel chair lift. Documents showed this information was sent to the respondent's Fleet and Lift office, which approved use of an accommodating bus. When Hughes arrived at the terminal, the respondent was not able to board him on the bus because the lift was broken, nor did the respondent board Mr. Hughes manually pursuant to the respondent's internal policy. The Department's investigation found that the respondent failed to make a reasonable accommodation for a known physical disability and denied Hughes full and equal enjoyment of its services because of his disability. This matter was resolved through conciliation where the respondent agreed to provide training and pay damages and attorney fees.

***Mielke v. 331 Bar and Grill*** (56543) - Mielke, who uses a service animal, was prevented from bringing her service animal into the respondent's restaurant and bar. Mielke explained to the respondent this practice was contrary to Minnesota law and that the dog was trained. This matter was resolved through conciliation where the respondent agreed to provide training, develop or review and revise a written policy, place a conspicuous notice that service animals are welcome, and pay damages.

**Disability/Reprisal**

***Kepp v. Jag Tours Inc.*** (55034) - Kepp, a disabled female who uses a prescribed walker, paid and joined the respondents chartered bus tour. Kepp requested the respondent make reasonable accommodations for her disability at the hotels where the tour group would stay and for her seat on the bus. After the tour began, the respondent unilaterally decided not to allow Kepp to keep her same seat on the bus. This matter was resolved through conciliation.

**Race**

***Phillips v. Dooley's Pub*** (58609) - Phillips, an African American male, was approached by the establishment's co-owner inside the establishment and told he was being ejected for previous violations of policies. This resulted in a verbal confrontation, the police being called, and ultimately Phillips' ejection. The Department's investigation found the respondent showed racial bias in the enforcement of its policies. This matter was resolved through conciliation where the respondent agreed to provide training to all employees, apologize, and pay damages.

***Aldridge v. Walgreens Company*** (57196) - Aldrige was accused of shoplifting merchandise, was not allowed to make purchases of items he had selected, and was ultimately told to leave the premises by the respondent's employees. The Department's investigation found the respondent showed racial bias in the enforcement of its decision. This matter was resolved through conciliation where the respondent agreed to provide training, review and revision of loss prevention policies, and pay damages and attorney fees.

***Adams v. Marshalls Inc./Crystal*** (56881) - Adams, an African American female, visited the respondent's Crystal, Minn. location. Upon exiting the store, the respondent apprehended

Adams and detained her as a suspected shoplifter. The Department's investigation found Adams' race was a factor in the respondent's actions. This matter was resolved through conciliation where the respondent agreed to provide training to its loss prevention and security staff, review and revise its written policies, provide reports to the Department for one year pertaining to individuals the respondent questions for suspicion of shoplifting, and pay damages.

**Sexual Orientation**

***Frey v. LeBlanc's Rice Creek Hunting and Recreation*** – The charging party, a gay male, called the respondent, a rural hunting preserve that holds itself out as a public venue for private events. The respondent went into detail with the charging party about securing the venue for his wedding until the charging party stated his fiancé was male at which point the respondent informed the charging party that it would not rent out his venue to the charging party. MDHR found probable cause and proceeded to successfully conciliate the matter with the respondent agreeing to pick up the hotel expenses for the charging party's wedding and paying damages to the charging party.

## Public Services

**Disability**

***Voegeli v. Hennepin County Sheriff's Office*** – Voegili, an individual who uses a wheelchair and catheter for his bodily functions, was placed in a holding cell without any personal items, including his catheter. Voegeli, as a result of not having his catheter, urinated on himself. Further, because Hennepin County's shower was inaccessible to Voegeli, he was forced to remain in his urine-soaked clothing until he was released to return home. MDHR found probable cause and proceeded to successfully conciliate the matter with Hennepin County amending its policies to ensure that individuals requiring accommodations are provided accommodations, and awarded damages and attorney fees to Voegili.

***Wasilowski v. County of Rice* (61634)** - The respondent is a local unit of government that posts videos of its public board meetings online. The charging party, an individual with a disability, asserted that the online videos did not make sense and he was unable to grasp what was being discussed. The Department's investigation found that the respondent had denied reasonable access to people with disabilities. This matter was resolved through conciliation where the respondent agreed to caption all regular County Board meetings and pay the charging party's attorney fees.

***Hooper v. City of North St. Paul Police*** (58176) *(See companion case 58177- Rankins v. City of North St. Paul Police)* - The respondent, in violation of its policies, utilized Hooper's sister to interpret on its behalf when speaking with Hooper. As a result, Hooper's sister learned of information concerning Hooper that Hooper did not want her to know. This matter was resolved through conciliation where the respondent agreed to ensure deaf and hard-of-hearing people will have full and equal enjoyment of the services and effective communication, designate a Deaf and Hard-of-Hearing Coordinator, post policies to staff and community, provide auxiliary aids and services where necessary, provide training of its new policies to all City Staff (as specified), and pay damages and attorney fees.

***Rankins v. City of North St. Paul Police*** (58177) *(See companion case 58176- Hooper v. City of North St. Paul Police)* - The respondent's officers failed to identify the charging party as an involved party in a police related matter. The Department's investigation found the charging party was involved, sustained injury, and that no attempt to effectively communicate with her was taken by the respondent. This matter was resolved through conciliation where the respondent agreed to ensure deaf and hard-of-hearing people will have full and equal enjoyment of the services and effective communication, designate a Deaf and Hard-of-Hearing Coordinator, post policies to staff and community, provide auxiliary aids and services where necessary, provide training of its new policies to all City Staff (as specified), and pay damages and attorney fees.

***Greenson v. County of Dakota Sheriff*** *(56772)* - The charging party is a deaf male who was an inmate in the respondent's jail. During the booking process the charging party requested an interpreter. The respondent knew that the charging party's primary language is American Sign Language and it knew he needed an interpreter during the booking process. The Department issued a probable cause determination upon finding the respondent failed to provide effective communication with the charging party.

**Religion**

***Spann v. MCF-Stillwater*** – MCF-Stillwater allowed all inmates to receive a Christmas meal. Spann, a Christian male, alleged that MCF-Stillwater should have provided a specific religious meal according to his religion consistent with the correctional facility's policy of providing one religious meal to all inmates. The respondent during the course of conciliation discussions with the Department agreed to allow inmates who are Christian to a religious meal independent of the Christmas meal and agreed to provide offenders with reasonable opportunities to pursue religious beliefs subject to reasonable security concerns.

**Religion/National Origin**

***Hashi v. County of Hennepin*** (53938) - Hashi is a Muslim woman of Somali national origin who went to the respondent to obtain services. While obtaining services, Hashi realized it was time for required prayer and was given permission to pray in a small area near the work cube of the respondent's representative. While Hashi was praying, a different representative of the respondent came out, ordered Hashi to move, touched Hashi in an effort to move her, moved Hashi's belongings, and continued to do so after being told Hashi was given permission to pray. This matter was resolved through conciliation where the respondent agreed to provide training through the Council on American-Islamic Relations, develop or review policies and procedures, notify employees of designated meditation/prayer space, issue a letter of apology, and pay damages.

## Education

**Disability**

***Kirkie v. Minnesota School of Business*** *(59621)* - The charging party, who has a disability, enrolled as a student in the respondent's medical assistant program. The charging party and the respondent's dean of students signed a written "agreement for reasonable accommodation." The Department found the respondent failed to ensure the equipment and supplies present in the classrooms frequented by the charging party were latex-free, as established in the respondent's reasonable accommodation agreement. The matter was resolved

through conciliation where the respondent agreed to pay damages and attorney fees to the charging party, and provide training to management.

***Miller v. ISD #272*** (53008) - Miller, a student at ISD #272 with a disability, requested to complete her summer school work at a location other than the respondent's school building as a reasonable accommodation. The Department's investigation found this request was not accommodated and that the associate principal discounted the charging party's medical condition. This matter was resolved through conciliation.

**Race**

***Pruitt v. ISD #256*** (56890) - Pruitt is an African-American student. The respondent allowed an unofficial dress-up day, whose name incorporated the racial epithet "wiggers." The Department issued a probable cause determination after an investigation showed the respondent did not fulfill its obligation to provide an education atmosphere free of illegal racial discrimination.

## Credit

**Disability**

***Letourneau v. Bank of America*** *(60597)* - The charging party, who is a hearing-impaired female, sought a loan modification with the respondent. The charging party's husband asked the respondent to communicate with the charging party solely via e-mail. The respondent did not honor this request. After review of the evidence, the Department reasonably concluded the respondent's denial of service was attributable to the respondent's refusal to reasonably accommodate the charging party by communicating with her solely via e-mail. The matter was resolved through conciliation where the respondent agreed to provide training to staff, pay damages and attorney fees to the charging party, and allow the charging party, contingent on final FHA loan payment, to assume the mortgage loan.

## Business

**National Origin**

***Whims v. Happy Hounds Rescue*** – The charging party, who is Korean and African-American ancestry, sought to adopt a dog from the respondent. The Department's investigation discovered documentation from the respondent that indicated that the respondent rejected the charging party because it believed the charging party was of Mexican ancestry and therefore would be unable to properly care for the dog. The matter was resolved during conciliation when it agreed to pay damages to the charging party and prominently posted non-discrimination notice at its place of business.

**Sexual Orientation**

***Scott v. ZLB Plasma Service*** *(53646)* - The charging party was denied the opportunity to sell her plasma upon informing the respondent's nurse that she was taking estrogen because she had gender reassignment surgery. The Department issued a probable cause determination upon finding the respondent had not established a legitimate business purpose for its

discriminatory policy which excluded transsexuals from donating plasma, without regard to the actual behavior of individual donors.

## Reprisal

***Sanford v. Volkswagen of Duluth*** *(60514)* - The charging party, a receptionist, was interviewed as a witness in an internal sexual harassment investigation. Approximately two weeks after the interview, the respondent posted an ad for two part-time receptionists. Three days later the charging party was terminated with "downsizing" listed as the termination reason. The Department found Sanford's termination was causally connected to her participation in the sexual harassment investigation. The matter was resolved through conciliation where the respondent agreed to provide training to management and supervisory employees and pay damages to the charging party.

***Pilgrim v. Michael Udovich*** (57554) (See companion case 57580 Employment- Age) - The charging party was employed by the respondent. After filing a complaint of discrimination, the respondent cancelled Pilgrim's insurance policy. The respondent argued that Pilgrim was not the only employee impacted by its decision to cancel its insurance. The Department's investigation revealed that Pilgrim was the only employee impacted. This matter was resolved through conciliation.

***Gunderson v. MnSCU MN State University Moorhead*** (58278) - (See companion case Employment-age)After Gunderson filed her charge for age discrimination, she was subjected to acts of reprisal by her supervisor. The Department's investigation found Gunderson was treated very badly, demeaned and humiliated after she filed her internal complaint. This matter was resolved through conciliation where the respondent agreed to provide training to supervisors and managers, and pay damages.

***Stevenson v. Aggregate Industries fka CAMAS Inc.*** (53436) - Stevenson was terminated shortly after filing an internal complaint of race discrimination. The Department's investigation found a causal connection between Stevenson's protected activity and his termination. This matter was resolved through conciliation where the respondent agreed to provide training, undergo onsite compliance review, and pay damages and attorney fees.

***Vang v. Blue Earth Interactive LLC*** (53898) - Vang, an employee of the respondent, brought a discrimination complaint in good faith. Vang was terminated days after bringing forward the complaint. The Department found that Vang was terminated as a result of filing the complaint. This matter was resolved through conciliation.