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The Honorable Anne Carney, Senate Chair
The Honorable Amy Kuhn, House Chair
Joint Standing Committee on Judiciary
100 State House Station
Augusta, ME 04333

Testimony of Stefan J. Jackson, Esq. in Support of SP 77, LD 141
“An Act to Provide Limited Immunity to Maine Human Rights Commission Mediators”

Senator Carney, Representative Kuhn and Distinguished Members of the Judiciary Committee:

In 2019, I joined the Maine Human Rights Commission’s (MHRC) mediation panel. From my first read the description of the program, mediating for MHRC felt for me like an answer to a calling.

I arrived in Maine a quarter century ago, transferring work headquartered in Wyoming to remote work from my soon-to-be spouse’s hometown, Bridgton. Within a couple of years, I came to treasure Maine and village life, and sought work locally, something that would contribute to sustaining community. It was immediately apparent that local individuals, especially people with generational history here, often serve in several roles as: e.g., legislator, business owner, coach, bus driver, and parent, with many different connections to each other. Even when one role or another puts two people in conflict they could have several other roles that would require them to work together, sometimes, often, again and again. Resolving conflict in such a way as to preserve relationships is the stuff of transformative mediation, and so after years of negotiating land and water conservation projects in the greater Bridgton area, I was recruited to become a mediator, by a local lawyer, now District Court judge.

I trained in transformative mediation and joined the State of Maine Court Alternative Dispute Resolution Service (CADRES) in 2014.

Now let me identify myself: Black/African American – of African slave & British-American slaveowner decent. Also, I am a lawyer, non-licensed, yet holding a Juris Doctorate (J.D.). So, when I tell that across my years in Maine, I have accumulated set of experiences related to my protected class, that range from the minor rude annoyance to clear egregious violation of MHRA, please trust in my truth. Given my training, skills and practice, I have been able to negotiate satisfactory resolutions to such conflicts.

So my desire to mediate for MHRC is rooted in my desire to represent for my ancestors, my spouse and her family, and my 4th generation BIPOC Mainers: my queer daughter & trans son; to help parties resolve disputes as amicably as they can, to sustain community.

As with other state mediation programs, pay is substantially lower than rates for private mediation. Providing top quality service, MHRC mediators are asking for the immunity afforded to other mediators for the state. Whether, when granted, this immunity reduces business expenses or expands coverage, for this sole proprietor, providing this immunity seems fundamentally fair for services rendered to Maine and its people.

CADRES (court mediators) have immunity under its rules: “ADR providers under contract with the Judicial Branch and the Director are immune from liability for actions undertaken in connection with these Rules pursuant to 4 M.R.S. § 18-B, and the Committee is immune from liability for such actions pursuant to 14 M.R.S. § 8101 et seq.”

LD 141 provides the same type of immunity for Maine Human Rights Commission mediators as the state provides for other state mediation programs. Specifically, it provides that “while carrying out their official duties, [Maine Human Rights Commission] mediators are considered state employees and are entitled to the immunity provided to state employees under the Maine Tort Claims Act.”

Whatever the outcome of this legislation, for threads woven into my tale above, I would choose to remain on the MHRC panel. All the more, I hope, mightily, this committee would vote “ought to pass”, taking a positive evolutionary, fundamental fairness step, providing the MHRC’s mediator panel the same immunity that other state mediation panels have.