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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 David C. Webb, 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:

I have been an attorney in Maine since 1989. Since 2000, my practice has focused on mediation and I continue to offer private mediation services to clients in the area of family, employment and business contract disputes. During my career as a mediator, I proud to have helped thousands of Mainers resolve disputes amicably and stay out of court.

I am also appreciative that the legislature has taken the lead to offer mediation services as an alternative to litigation within the context of various agencies serving the state. I have served on various mediation panels, including the CADRES family, small claims and rule 16B panels and the Maine Department of Education mediation panel. Beginning in 2019, I accepted a position on the Maine Human Rights Commission’s mediation panel.

Because these state-sponsored mediation panels often pay well below regular private mediation rates, my ability to serve on these panels has been tied to the immunity offered to the mediators who serve on them. For example, 20-A M.R.S. § 7207-C(3) provides that the Maine Department of Education mediators “are considered state employees and are entitled to the immunity provided state employees under the Maine Tort Claims Act.”

Also, 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.”

These immunity protections greatly decrease the cost of liability insurance that I would otherwise have to purchase to conduct these mediations. 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.”

Thank you for considering this legislation and I would strongly support an “ought to pass” vote from this committee.