

STATE OF NEW YORK
DIVISION OF HUMAN RIGHTS
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COURTS CONFIRM NEW YORK STATE DIVISION OF HUMAN RIGHTS' AUTHORITY TO INVESTIGATE POTENTIAL DISCRIMINATORY PRACTICES

Three recent court decisions have strongly reaffirmed the New York State Division of Human Rights' authority to investigate possible acts of discrimination, both on its own initiative and in response to complaints filed with the agency. "These major victories from across the State confirm what I already knew -- that the Division has the statutory authority to aggressively pursue investigations into potential discriminatory policies and practices," stated Division Commissioner Kumiki Gibson.

Within days of taking office, Commissioner Gibson commenced the first Division-initiated investigation in over a decade, investigating whether the East Meadow Union Free School District's policy of not allowing students to use guide dogs, hearing dogs, and service dogs in school violates the State's Human Rights Law, which the Division enforces. East Meadow challenged the Division's ability to proceed with the investigation, arguing that a federal court's prior dismissal of an East Meadow student's claim under the Americans with Disabilities Act ("ADA") permanently foreclosed the Division's inquiry under State law.

In an August 7, 2007 decision, Acting Supreme Court Justice James P. McCormack flatly rejected this argument, finding that that State's Human Rights Law affords greater protections for persons with disabilities than the ADA, and that

the Division has the authority and jurisdiction to proceed with its action against East Meadow.

This victory comes on the heels of a procedural win against H&R Block in the Division's second initiated investigation, which is examining whether H&R Block and other tax preparation companies are targeting military families and communities of color for high-cost tax refund loans. It also comes on the heels of a June 2007 Appellate Division ruling denying Wal-Mart's motion to enjoin the Division from investigating alleged discriminatory employment practices based on three employees' criminal conviction records. In that decision, a unanimous Fourth Department recognized the Division's right to proceed with its investigation into the possible violation of an important provision of the State's law that assists ex-felons with re-entry back into the workforce.

These rulings reinforce the Division's authority to take necessary steps to fulfill its statutory mandate to prevent and eradicate discrimination across State, through its own investigations into systemic forms of discrimination and through those filed by individuals alleging individual acts of discrimination. As Gibson stated: "The Division is here as an active law enforcement agency, examining claims of wrongdoing to ensure that New Yorkers have an equal opportunity to participate fully in the economic and social mainstreams. The courts have confirmed our authority and our jurisdiction to do so. And, we intend to do so aggressively."

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New York has the proud distinction of being the first state in the nation to enact a Human Rights Law, which affords every citizen "an equal opportunity to enjoy a full and productive life." The New York State Division of Human Rights was created to enforce this important law and does so through, among other things, the vigorous prosecution of unlawful discriminatory practices and the receipt, investigation, and resolution of complaints of discrimination. Please visit the Division's website at www.dhr.state.ny.us for additional information about the agency and its work.