

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

CALLIE LUHMAN, obo ZL AND EL;
JEANNE BULLARD; AND CANDACE
BULLARD,
Charging Parties,

HRB CASE NO. 0180220-0180224
REMAND ORDER

-v-

DILLARD'S DEPARTMENT STORE,
Respondent

Charging Parties Callie Luhman, Candace Bullard, Jeanne Bullard, and minor children Z.L. and E.L. (Luhman et al.) filed a complaint with the Department of Labor and Industry (Department) alleging unlawful discrimination in public accommodation on the basis of race. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Luhman et al.'s allegations that Respondent, Dillard's Department Store, unlawfully discriminated against Luhman et al. The Department issued a Final Investigative Report and Notice of Dismissal. Luhman et al. filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on January 18, 2019. Charging Party Candace Bullard appeared and argued on behalf of Luhman et al. Brianne C. McClafferty appeared and argued on behalf of Dillard's Department Stores.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. Mont. Code Ann. § 49-2-511(2). After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is an abuse of discretion. The Department stated in the Final Investigative Report that it did not interview witnesses listed by Bullard et al. due to time constraints. These witnesses include employees of Dillard's Department Store who can be seen in the security footage provided to the Commission. The employees may have first-hand knowledge of the events in question. This

omission due to time constraints was an abuse of discretion. Therefore, the Commission sustains the objection and the case is hereby remanded for hearing to the Office of Administrative Hearings pursuant to Mont. Code Ann. § 49-2-505.

Nothing in this order precludes the parties from engaging in the mediation or other settlement negotiations that would normally occur if the Department's Final Investigative Report had found cause. Mont. Code Ann. § 49-2-504(2)(b).

IT IS HEREBY ORDERED, that the objection of Charging Parties Callie Luhman, Candace Bullard, Jeanne Bullard, and minor children Z.L. and E.L. is **sustained**. The Commission reopens and remands the case for a hearing at the Office of Administrative Hearings.

DATED this 25th day of January 2019.



Sheri Sprigg, Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 25th day of January 2019.

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Annah Howard, Legal Secretary
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