

## EXECUTIVE DIRECTOR SPEAKS OUT



Surrounded by the Connecticut Reports containing cases prosecuted by Human Rights Attorneys (HR Attys.) of the CHRO and a stack of cases either certified for public hearing or awaiting reconsideration, Executive Director **Robert J. Brothers, Jr.** contemplates how to move the agency forward during an era of shrinking resources. The Director told the legal staff "we have to work harder and smarter and do more with less." "Every couple of years, if not more often than that, the Agency is saddled with more statutory responsibility, but our resources are not keeping pace." Mr. Brothers vows to take the agency in a new direction and cordially invites the public to attend informational sessions about the CHRO's complaint process in **Waterbury on November 19, 2010** and in **Bridgeport on December 13, 2010**. Go to [www.ct.gov/chro](http://www.ct.gov/chro) to view the flyers.

## LEGAL UPDATE

**Atty. David Kent** successfully challenged a decision finding no discrimination against a transgendered police officer (male to female) who was denied a promotion and retaliated against for her complaints of discrimination. The Court also found that the Hearing Referee did not consider the discriminatory work environment when determining whether there was pretext. Attorney Kent also argued that it was an error for the tribunal to determine that "transsexual" is not a physical disability covered under CT law. The court held that the CHRO Declaratory Ruling in the *Doe* matter plus other more recent state and federal decisions clearly protect transgendered individuals from discrimination. Finally, the court held that incidents alleged in an amended complaint to show retaliation can reasonably "relate back" to the date of the original filing. The case has been remanded for further proceedings consistent with the court's opinion. CHRO v. City of Hartford, Superior Court, JD New Britain, No. CV-094019485 (Cohn, J.)

**Atty. Nurse-Goodison** was successful in defeating a Motion to Dismiss in a case at public hearing where the Respondent argued that CHRO did not have jurisdiction over the case because the Complainant worked in Egypt. The Referee found that CHRO **had** jurisdiction because the Complainant was hired after many telephone interviews from his home in CT, Complainant signed his employment contract, as well as several other documents, in CT and the Respondent maintained an office in Stamford, CT. Thus, the termination decision may have been made in CT, CHRO ex rel. Ellis v. ACE Intn'l.

## COMMISSIONER'S CORNER



**CHRO Commissioner Cheryl Lynn Clarke** says, "civil rights is in [her] blood." She has been a Commissioner with the CHRO for about six years and passionately talks about the agency going through a period of growth and development. The Commissioner wanted to be a part of the oldest civil rights agency in the nation and was honored to accept her appointment. She wants the CHRO to be in the community more in order to effectively root out employment discrimination. The Commissioner's dedication to equality and fairness dates back to her youth. She was born in the '40s and lived through the marches on Washington, the activity of the Black Panther Party and the struggle for civil

rights. She quoted Dr. Martin Luther King, and said "injustice anywhere is injustice everywhere." "The CHRO is here to protect the rights of the people and as a Commissioner I want to protect the rights of the public to be free of discrimination." The Commissioner's involvement in ensuring equality for all people goes far beyond her service to the CHRO. She retired from SNET after close to thirty years where she was responsible for Affirmative Action. She was the Business Agent for a Teamsters Local and currently is employed by Northeast Utilities as the Manager of Purchasing and Supplier Diversity. She remarked, "collectively the Commissioners will be agents of change and I will be here until it happens." Lastly, with a touch of class, she paid her respects to a deceased **Commissioner Lillian Brown** and applauded her commitment to civil rights.

## ENFORCEMENT ACTIVITIES

*Employment cases settled during the Investigative stage*

**October \$138,350**

## CONTRACT COMPLIANCE FAIR



On October 21, 2010, as a part of CHRO's commitment to community outreach, the Affirmative Action/Contract Compliance Unit held its Contract Compliance Fair. The purpose of the Fair was to provide information and insight into the Contract Compliance process for contractors and vendors doing business with the state. The Fair united many members of the construction community with state agency staff. Participants in the Fair included **Joe Gilberto, DAS Procurement Services**, who discussed "How to Do Business With the State/The Bidding Process for Vendors"; **David Busanet, DPW Procurement Manager**, who discussed "How to Do Business With the State/The Bidding Process for General Contractors."; and **Meg Yetishefsky, Director Supplier Diversity Program**, who discussed the "DAS Small Business Certification Process." The Fair was

kicked off with a welcome by **HR Atty. Cheryl Sharp**. There was also a panel discussion with HRO Reps. – **Jeri D. Beckford, Janice L. Cheeks, and Susan Hom; and HR Atty. Alix Simonetti**. Commissioners **Edward Mambruno and Cheryl Lynn Clarke** were also in attendance. Due to its overwhelming success, additional Contract Compliance Fairs will be held around the state.

## THE OFFICE OF PUBLIC HEARINGS IN FULL VIEW



The Office of Public Hearings is home to five Human Rights Referees (HR Refs) as they are referred to at the CHRO—**J. Allen Kerr, Jon P. FitzGerald, Donna Wilkerson Brillant, Thomas Austin, and Jerome Levine** and an Assistant **Kimberly Morris**. The HR Refs. Have varied backgrounds and each has a distinct path that led them to the CHRO. HR Ref. Kerr spent more twenty years as a town atty. serving ten municipalities, including over a decade as corp. counsel to the town of Ridgefield. He was first appointed a Ref. in 2004 and designated as chief in spring of 2010. HR Ref. FitzGerald was first appointed in January of 1999. Prior to his appointment, he was in a general private practice and over the years has served as a member of the executive committees of the CBA's Admin. Law and Labor and Emp. Law sections and the Nat'l Assoc. of Admin. Law Judiciary. HR Ref. Brillant has adjudicated complaints with the CHRO for almost 12 years—two years as Chief. She was in private practice prior to joining the CHRO. HR Ref Austin was appointed by Gov. Rell in July 2004. At the time of appointment HR Ref Austin was a partner with the law firm of Gilman & Marks where he spent some time engaged in employment litigation. Prior to Gilman & Marks he was a partner at the firm of Austin & Heagney. HR Ref. Levine was appointed in 2007. Prior to his appointment he spent 35 years in private law practice. He was a solo general practitioner for 13 years during which he served as either Town Attorney or special counsel for the Town of Vernon. He also served on a State Bar Assoc. local grievance panel.

For the fiscal year to date (July 1, 2010 to Oct. 31, 2010), the HR Refs. have

conducted 49 conferences, four default hearings and three public hearings (trials). The Refs. have also ruled on **118** motions and closed 16 discrimination cases and 5 whistleblower cases. The total settlement figure for discrimination cases for the fiscal year to date is **\$46,500.00**, which does not include the dollar amounts for confidential settlements.

### IN THE COMMUNITY

**Atty. Cheryl Sharp** sat on the social justice panel with **Representative Toni Walker**, at the Concerned Citizens' Forum and discussed the role of the CHRO in eliminating discrimination throughout the state in employment, housing, credit and places of public accommodation. The Concerned Citizens' Forum is a statewide non-partisan forum which offered CT's candidates running for office, Elected Officials and State Agencies the opportunity to meet with concerned citizen for an "interactive dialogue" on issues affecting communities throughout the state.

### HR ATTYS. ON EDUC. EQUITY

The question of whether school children have a substantive constitutional right to an adequate or suitable education is being considered in a major constitutional case brought by the Coalition for Justice in Education Funding (CCJEF). **HR Attys. Cheryl Sharp and Alix Simonetti** weighed in on the issue of educational equity in our state. The issue of whether CT students are receiving equal educational opportunity is within the Commission's oversight. The CHRO expects to monitor the developments of this groundbreaking civil rights lawsuit closely. The CHRO has an interest in CCJEF v. Rell because of the potential disparate impact that disproportionate school funding has on African-American, Latino and other minority students commented Sharp and Simonetti. "Students who receive an

inadequate education often become trapped in a cycle of poverty and discrimination that does not end with the last day of school" wrote Attorneys Sharp and Simonetti in an op ed. piece for the first issue of the "Legal Times"—a Law Journal that is set for distribution soon.

### SPOTLIGHT EASTERN REGIONAL OFFICE

HRO Rep. **Terry Plato** negotiated a settlement of \$15,000 for a complainant—a single mother in a pregnancy case filed with the CHRO. After settlement, Plato said "It felt really good that I could do something good for this young lady" when she spoke with her co-workers about the case.

### CHRO IS TRAINING, TRAINING...



CHRO Investigative and legal staff shared their ideas regarding processing of complaints during the investigative stage as the Agency struggles to manage a case load of nearly 2000 cases at a time when government is shrinking. Training for all CHRO investigative staff took place on October 19, 2010. During the training, seasoned investigators participated in a panel discussion about case summary preparation and evidence gathering and provided useful investigative techniques to their colleagues.

**Attys. Natasha Pierre of the PCSW and Robin Kinstler Fox of CHRO** provided Foundation Training to new Affirmative Action Officers and Attorney General Designees on October 14 and 15, 2010. This training is required of all individuals in those positions pursuant to Conn. Gen. Stat. 46a-68(b)(3) and (4). It covered the process for investigating discrimination complaints, the CHRO process, some of the more difficult substantive issues in discrimination law and gave participants the opportunity to prepare a mock complaint investigation and final report. We would like to thank Asst. Atty. General **Margaret Q. Chapple** and **HR Atty. Cheryl Sharp** for their assistance in the training.

HR Attys. & Reps. attended the **Annual Conference of the Connecticut Housing Coalition**. The Conference featured panel discussions such as "State Housing Agencies in an Era of Reinventing Government" and "Housing, the budget and the Economy". CHRO staff was in good company as both candidates for Governor **Dan Malloy** and **Tom Foley** gave presentations during lunch.