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STATE OF INDIANA

CIVIL RIGHTS COMMISSION

The Indiana Civil Rights Commission meeting was held on the 20th day of MAY, 2024, scheduled at 1 p.m. at the Indiana Government Center North, 100 North Senate Avenue, Room N300, Indianapolis, Indiana, and reported by me, Marjorie A. Addington, Notary Public in and for the County of Hamilton, State of Indiana, CM, CSR: KS.

ACCURATE REPORTING OF INDIANA, LLC
543 PONDS POINTE DRIVE
CARMEL, INDIANA 46032
(317) 848-0088

1 A P P E A R A N C E S

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4 COMMISSION MEMBERS:

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7 Adrienne Slash, Chairperson

8

9 Steven A. Ramos, Vice-Chair

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11 Sue Silberberg, Commissioner

12

13 Terry Tolliver, Commissioner

14

15 Alpha Blackburn, Commissioner

16

17 INDIANA CIVIL RIGHTS COMMISSION STAFF:

18

19 Mr. David Fleischhacker, Deputy Director

20 Mr. Mike Lostutter, Docket Clerk

21 Indiana Government Center North

22 100 North Senate Avenue

23 Room N300

24 Indianapolis, Indiana 46204

25

26

27 ICRC STAFF PRESENT REMOTE:

28

29 Ms. Christiana Afuwape

30

31

1 CHAIR SLASH: It is 1:09 p.m. on May 20th, 2024.
2 The meeting of the Indiana Civil Rights Commission is
3 now in session.

4 DOCKET CLERK LOSTUTTER: All right. Just to get
5 things going, please be advised no party will be
6 allowed to speak directly to the Commission during
7 Commission meeting except during a previously
8 scheduled oral argument. Concerning appeals, the
9 Commissioners will make their initial determination
10 based on the complaint, the Notice of Finding, the
11 appeal, and the final investigative report. You must
12 not address the Commission Members except and unless
13 you are addressed directly by them. If you have any
14 questions about your case, please wait to speak to the
15 Docket Clerk until after the Commission meeting.
16 Thank you.

17 MS. AFUWAPE: Mike, could you talk louder? It's
18 a bit hard for us to hear.

19 DOCKET CLERK LOSTUTTER: All right, I will talk
20 louder.

21 MS. AFUWAPE: Thank you.

22 DOCKET CLERK LOSTUTTER: Sorry.

23 MS. AFUWAPE: Thank you.

24 DOCKET CLERK LOSTUTTER: You're welcome.

25 CHAIR SLASH: Okay, and now we will have the

1 announcement of the agenda, just be sure to move the
2 Director's Report to after we discuss business.

3 DOCKET CLERK LOSTUTTER: Correct. We will have
4 to establish quorum as we have one member doing
5 virtually here. We have announcement of the agenda,
6 approval of previous meeting minutes, ICRC Director's
7 Report will be towards the end. We will deal with the
8 Old Business, appeals that were assigned to various
9 Commissioners, and then we will have New Business of
10 assigning new appeals to Commissioners. We will then
11 have a review of ALJ Decisions and Orders, a reading
12 into the record of other ALJ decisions that were
13 automatically confirmed, and then at that point we'll
14 have the Director's Report.

15 CHAIR SLASH: Thank you very much.

16 DOCKET CLERK LOSTUTTER: You're welcome.

17 CHAIR SLASH: Okay, at this time I'd like to call
18 for a motion to approve last month's meeting minutes.

19 VICE CHAIR RAMOS: So moved.

20 COMMISSIONER TOLLIVER: Second.

21 CHAIR SLASH: We'll take a motion by Vice Chair
22 Ramos and a second by Commissioner Tolliver.

23 DOCKET CLERK LOSTUTTER: And we'll call the roll.
24 Commissioner Silberberg.

25 COMMISSIONER SILBERBERG: Aye.

1 DOCKET CLERK LOSTUTTER: Commissioner Blackburn.

2 COMMISSIONER BLACKBURN: Aye.

3 DOCKET CLERK LOSTUTTER: Commissioner Tolliver.

4 COMMISSIONER TOLLIVER: Aye.

5 DOCKET CLERK LOSTUTTER: Vice Chair Ramos.

6 VICE CHAIR RAMOS: Aye.

7 DOCKET CLERK LOSTUTTER: Chair Slash.

8 CHAIR SLASH: Aye.

9 DOCKET CLERK LOSTUTTER: "Ayes" have it.

10 CHAIR SLASH: Okay. As we begin we will begin
11 with Old Business. We have a number of folks here for
12 oral argument today. As we approach your oral
13 argument I'm just kind of going to give very general
14 instruction that we will hear five minutes from the
15 complainant and five minutes from the respondent, then
16 there will be two minutes to respondent, and our
17 Docket Clerk will keep your time and let you know when
18 you've got one minute and he'll let you know when your
19 time is up.

20 Okay. All right. We will begin with the case of
21 Ashleigh Foster versus Hamilton National Title, LLC,
22 d/b/a Near North Title, Case EMra23100624. This case
23 was continued from April, thank you for your patience,
24 and we have an oral argument here. Do we have all
25 parties present?

1 MR. FILS-AIME: Yes.

2 DOCKET CLERK LOSTUTTER: Who was that?

3 CHAIR SLASH: Can you state your name?

4 MR. FILS-AIME: Marckennedy Fils-Aime.

5 DOCKET CLERK LOSTUTTER: Then this is not your
6 case yet, sir.

7 CHAIR SLASH: This is the case of Ashleigh Foster
8 versus Hamilton National Title. Who do we have here
9 for this one?

10 MR. SMITH: I'm here for respondent.

11 CHAIR SLASH: You're here for the respondent?

12 MR. SMITH: Yes, ma'am.

13 CHAIR SLASH: Okay.

14 DOCKET CLERK LOSTUTTER: It does not appear that
15 we have anyone here for the complainant.

16 CHAIR SLASH: Okay, that's not very common,
17 haven't had that before. Okay. I'm trying to recall
18 how we have handled this before.

19 DEPUTY DIRECTOR FLEISCHHACKER: It's set for oral
20 argument, so respondent can speak if they want to.

21 CHAIR SLASH: Yeah, you're able to take your five
22 minutes if you'd like.

23 MR. SMITH: I'll be very brief. Donald Smith
24 with the law firm of Riley Bennett Egloff and I
25 represent Hamilton National Title, LLC, doing business

1 as Near North Title Group, and the bottom line is that
2 the Commissioners made the right decision initially,
3 there was no evidence of discrimination. The charging
4 party claims she was scolded for closing the door to
5 her office and then she was eventually terminated.
6 With regard to the first charge, her regional manager
7 is at the center, it's a title insurance company in
8 southern Indiana, and she noticed that the charging
9 party's door was closed and she looked online and
10 realized that she was conducting business on Facebook
11 at the time, so they instructed her just not to shut
12 her door when she was working unless she was on a
13 lunch break, that was consistent with their normal
14 practice and custom.

15 She was not disciplined or reprimanded as a
16 result, and the investigator and the Commissioner
17 eventually found that there was no evidence that
18 others were treated differently and as a result that
19 charge was found to be no probable cause.

20 With regard to her termination in August of '22,
21 the title business was slow at the time, closings were
22 greatly reduced. Charging party was a closing
23 officer. The company offered her the opportunity to
24 learn other tasks to keep herself busy because there
25 were not enough closings going on at the time. Her

1 skills would've been helpful in other job duties that
2 she had there. There was no resulting change in her
3 compensation. They were going to invest in her
4 future, as they told her. When she was asked whether
5 she would be willing to learn some additional tasks,
6 she said "No, absolutely not."

7 Two weeks later she was laid off along with three
8 others. Three of the four are white, she is black.
9 The decision was made there's no evidence of race
10 discrimination and as a result of that the Deputy
11 Director, the Executive Director, correctly determined
12 no probable cause to believe that discrimination had
13 occurred and we urge the Commission to follow that
14 ruling.

15 CHAIR SLASH: Thank you.

16 MR. SMITH: Thank you very much.

17 CHAIR SLASH: One more time, we haven't had
18 anybody join the call?

19 DOCKET CLERK LOSTUTTER: No one that would be the
20 complainant.

21 CHAIR SLASH: Okay, so at this time this case was
22 assigned to me and I had a recommendation, I wanted to
23 hear oral argument, thank you for sharing, thanks for
24 coming in today. It is my recommendation that we
25 uphold the Deputy Director's finding of no probable

1 cause. Is there a motion?

2 COMMISSIONER TOLLIVER: So moved.

3 VICE CHAIR RAMOS: Second.

4 CHAIR SLASH: Thank you. Motion Commissioner

5 Tolliver, second Vice Chair Ramos. Call the roll.

6 DOCKET CLERK LOSTUTTER: Commissioner Silberberg.

7 COMMISSIONER SILBERBERG: Aye.

8 DOCKET CLERK LOSTUTTER: Commissioner Blackburn.

9 COMMISSIONER BLACKBURN: Aye.

10 DOCKET CLERK LOSTUTTER: Commissioner Tolliver.

11 COMMISSIONER TOLLIVER: Aye.

12 DOCKET CLERK LOSTUTTER: Vice Chair Ramos.

13 VICE CHAIR RAMOS: Aye.

14 DOCKET CLERK LOSTUTTER: Chair Slash.

15 CHAIR SLASH: Aye.

16 DOCKET CLERK LOSTUTTER: The "ayes" have it.

17 CHAIR SLASH: Thank you. The next case Vicky

18 Newman versus Tenneco Automotive Operating Company,

19 Inc., Case EMha23070622. This is an oral argument

20 case that was also continued from April, thank you for

21 your patience. Do we have both parties or either

22 party present today?

23 DOCKET CLERK LOSTUTTER: Do we have the

24 complainant, Vicky Newman, with us? Do we have a

25 representative for the respondent, Tenneco?

1 MS. FRUEH: Yes, thank you, Commissioners. My
2 name is Anne Frueh, that's spelled F as in "Frank"
3 R-U-E-H, and I'm here on behalf of Tenneco, and also
4 on the call with me is the HR manager from the
5 facility, Robin Lavoine, that's L-A-V-O-I-N-E,
6 although she's traveling, so she may not have the
7 greatest reception.

8 CHAIR SLASH: Okay, thank you. And one last
9 check to see if any of those numbers that are on the
10 phone that I can't see are representing the
11 complainant?

12 DOCKET CLERK LOSTUTTER: If the complainant is
13 online, please speak up.

14 CHAIR SLASH: Okay, you have your five minutes if
15 you'd like.

16 MR. FILS-AIME: What company?

17 DOCKET CLERK LOSTUTTER: Sir, it's not your case
18 yet. When it's your time we'll let you know.

19 CHAIR SLASH: Yes, we're seeking Vicky Newman at
20 this time. Okay, having her not present, we'll begin
21 with you, ma'am.

22 MS. FRUEH: Okay, thank you very much. I think
23 it's a simple matter and I think the Commission made
24 the correct decision to find no reasonable cause that
25 discrimination occurred. Ms. Newman was terminated

1 pursuant to the company's progressive discipline
2 policy and there were others who were disciplined for
3 similar quality infractions who were not disabled and
4 did not exercise rights under FMLA and we believe that
5 Ms. Newman did not demonstrate any evidence of
6 discrimination on the basis of her disability or
7 seeking FMLA protection. Thank you.

8 CHAIR SLASH: Thank you. We didn't have anybody
9 join us, so I'll go ahead. There were two issues on
10 this case and the first issue is on the basis of
11 disability and I uphold the Deputy Director's finding
12 of no probable cause. The second issue was denied
13 reasonable accommodation and I uphold the Deputy
14 Director's finding of no reasonable cause on that one.
15 Is there a motion?

16 VICE CHAIR RAMOS: So moved.

17 COMMISSIONER TOLLIVER: Second.

18 CHAIR SLASH: Okay, motion Vice Chair Ramos,
19 second Commissioner Tolliver.

20 DOCKET CLERK LOSTUTTER: All right, we will call
21 the roll. Commissioner Silberberg?

22 COMMISSIONER SILBERBERG: Aye.

23 DOCKET CLERK LOSTUTTER: Commissioner Blackburn.

24 COMMISSIONER BLACKBURN: Aye.

25 DOCKET CLERK LOSTUTTER: Commissioner Tolliver?

1 COMMISSIONER TOLLIVER: Aye.

2 DOCKET CLERK LOSTUTTER: Vice Chair Ramos.

3 VICE CHAIR RAMOS: Aye.

4 DOCKET CLERK LOSTUTTER: Chair Slash.

5 CHAIR SLASH: Aye.

6 DOCKET CLERK LOSTUTTER: The "ayes" have it.

7 CHAIR SLASH: Thank you. The next case is the
8 case of Paula Lydia Castillo versus Indiana Department
9 of Correction, Case EMno23100774. This case was
10 assigned to Vice Chair Ramos, do you have a
11 recommendation?

12 VICE CHAIR RAMOS: Yes, I recommend that we
13 uphold the Executive Director's finding of no probable
14 cause.

15 CHAIR SLASH: Thank you. Is there a motion?

16 COMMISSIONER TOLLIVER: So moved.

17 CHAIR SLASH: Is there a second?

18 COMMISSIONER BLACKBURN: Second.

19 CHAIR SLASH: Thank you. Motion Commissioner
20 Tolliver, second Commissioner Blackburn.

21 DOCKET CLERK LOSTUTTER: We will call the roll.
22 Commissioner Silberberg.

23 COMMISSIONER SILBERBERG: Aye.

24 DOCKET CLERK LOSTUTTER: Commissioner Blackburn.

25 COMMISSIONER BLACKBURN: Aye.

1 DOCKET CLERK LOSTUTTER: Commissioner Tolliver.

2 COMMISSIONER TOLLIVER: Aye.

3 DOCKET CLERK LOSTUTTER: Vice Chair Ramos.

4 VICE CHAIR RAMOS: Aye.

5 DOCKET CLERK LOSTUTTER: Chair Slash.

6 CHAIR SLASH: Aye.

7 DOCKET CLERK LOSTUTTER: "Ayes" have it.

8 CHAIR SLASH: The next case was assigned to
9 Commissioner Harrington. Did she submit a
10 recommendation prior to --

11 DOCKET CLERK LOSTUTTER: No, no, she did not.

12 CHAIR SLASH: Okay, so in the case of Constance
13 Kalb versus AAM Professional Services, Vandalia By Del
14 Web Homeowners' Association, Inc. and Associated Asset
15 Management, LLC, Case HOha23110913, we will continue
16 that case until the June meeting. The next case is
17 Marckennedy Fils-Aime versus Covanta Energy, LLC,
18 d/b/a Covanta Indianapolis, Inc., Case EMno23100789.
19 This case is here for oral argument prior to
20 recommendation.

21 DOCKET CLERK LOSTUTTER: Yes, and we have the
22 complainant here and I believe we have two
23 representatives for the respondent.

24 MS. NORMAN: Yes, Commissioners, my name is Anna
25 Norman, I'm the employment counsel for Reworld which

1 we went through a name change, formerly Covanta, and
2 also on is our HR rep, Laura Molling.

3 CHAIR SLASH: Thank you. And we have the
4 complainant, can you say and spell your name for us,
5 please, just for the record?

6 MR. FILS-AIME: Marckennedy, M-A-R-C-K-E-N-
7 N-E-D-Y, Fils-Aime, F-I-L-S dash A-I-M-E.

8 CHAIR SLASH: Thank you very much. Okay, and
9 since we have both of you here for this one it will be
10 a little bit different. We will begin with you,
11 Marckennedy, and you will have five minutes. You may
12 not be able to see us in this room, but when I get to
13 one minute I'll try to raise my hand, hopefully that's
14 something that you can see, and when you get to the
15 end of your five minutes we'll let you know by saying
16 that that's your time, is that okay for you?

17 MR. FILS-AIME: Yes, ma'am.

18 CHAIR SLASH: Thank you very much. You may begin
19 your five minutes.

20 MR. FILS-AIME: Yes. I appealed the decision
21 that the Commission or the investigator found my
22 complaint to be no probable cause. There is plenty of
23 probable cause in my complaint. I began my employment
24 with Covanta Energy on July 10th, 2023. My first two
25 weeks working with Covanta, actually two and a half

1 weeks, I did not have access to my GPI certification.
2 The GPI certification is a process that each employee
3 has to go through to get safety certified.

4 Unfortunately for me when I begun I believe his name
5 is Matt Brown, the safety manager, was out because he
6 had some kind of issue going on, so I couldn't touch
7 anything, I wasn't allowed -- I was just basically
8 shadowing people but I couldn't touch anything and so
9 the people were upset because I couldn't do anything.

10 Approximately 25 days of me working around July
11 22 I realized that I've been put in various
12 departments and yet have not been signed up for
13 anything, have not spent enough time training on
14 anything, and yet that I was just being thrown around.
15 When I realized that, I went to the lady that hired
16 me, her name's Maryanne, and I told her I don't feel
17 like I'm being set up to succeed because one day I'm
18 at the crane cab, the next day I'm at the boiler, the
19 next day I'm at the water plant, the next day they
20 sent me to the line station and I have no clue what's
21 going on because I'm new here.

22 When I was hired I was told that I was supposed
23 to be on the OJT, on-the-job training, because they
24 knew and recognized that I did not have the skill-set
25 for the job recommended and I had to be trained.

1 Based on experience I showed that I can learn based on
2 my resume, therefore they hired me, and they were
3 supposed to give me adequate training. When I made
4 the complaint to her because I came to her first, she
5 said "I just hired you but I'm not HR, however I will
6 talk to the facility manager who's overseeing you
7 train." He came to me and spoke with me but he did
8 not address my concern, they just kept me at the line
9 station.

10 The guy who was at the line station was a temp,
11 so he actually got hired, too, but I was hired before
12 him, so they put me in his place and sent him to
13 training and kept me in the line station. They kept
14 me in the line station for approximately three months,
15 for approximately three months I'm at the line station
16 and everybody in the yard, including James Bentley,
17 who is the gentleman I replaced, he told me, he said
18 "Hey, man, you know this is a temp position, you've
19 got to learn the job." I said "Well, they have not
20 put me in training where I'm supposed to be trained,
21 they kept me on the floor." Finally I talked to my
22 supervisor, I said --

23 CHAIR SLASH: One minute.

24 MR. FILS-AIME: Okay. He said I will not be able
25 to keep my job because I've got to be trained and I

1 said "You are on nightshift and now you are on day
2 shift, can you make sure I get the training?" I did
3 not get the proper training. Instead of getting the
4 proper training, I got a 39-day assessment that says
5 that I'm not capable, I'm incompetent, I'm too slow
6 and if I don't show that I'm competent then I'm going
7 to lose my job, that's when I decided that I needed
8 help and feel like I was discriminated against because
9 I was not given the same training as my peers. As a
10 matter of fact, they even removed a temp and then
11 hired him, give him training, and they said "We're
12 training him as well as you, you know, we'll find a
13 way to get you trained."

14 CHAIR SLASH: Thank you, that's your time.

15 MS. NORMAN: Thank you, Commissioners. My name
16 is Anna Norman, again, on behalf of Reworld, formerly
17 Covanta. So there's --

18 (Reporter interrupts to have counsel introduce
19 herself.)

20 MS. NORMAN: Anna, A-N-N-A. Last name Norman, N
21 as in "Nancy" O-R-M as in "Mary" A-N as in "Nancy."

22 CHAIR SLASH: We're restarting your time right at
23 five minutes, go ahead.

24 MS. NORMAN: Sure, thank you. Thank you,
25 Commissioners. With all respect to the complainant, I

1 don't think that anything that he went through as far
2 as his work history with Reworld moves the needle on
3 the Commission's original finding of no probable cause
4 for race discrimination particularly because I think
5 what it sounds like most of the issues are with the
6 amount of training and whether the training was
7 adequate, but I think just looking -- We stand on our
8 position statement and looking at the actual evidence
9 of the record it appears as though a lot of the
10 performance issues with complainant began almost as
11 soon as he started in which we tried to remedy on
12 several occasions.

13 It is a fact that we do do a 90-day check-in to
14 let employees know that this is their introductory
15 period and this is where we're going to be assessing
16 their performance, but this performance was so
17 unsatisfactory that we actually have pre-90-day
18 check-ins with him to the point where we could not, he
19 mentions inadequate training, but we could not keep
20 him training on all of the sites and jobs that we
21 expected him to perform because some of the things
22 that he had been trained on he did not seem to grasp
23 the concepts and we had to retrain to the point where
24 we had him working with other people, we had him
25 working on multiple different types of projects, and

1 after the 90-day that's when we put him on notice as
2 we do with all employees that this is just not
3 working. As far as the race discrimination, I don't
4 believe complainant mentioned anything about being
5 differential treatment other than the alleged temp
6 comparator that he referenced earlier, but as
7 mentioned in our position statement we had been
8 working with this particular employee prior to, with a
9 temp staffing agency, prior to complainant's hire and
10 even in light of that, that particular individual was
11 more experienced than complainant and as mentioned
12 correctly I think in the no probable cause finding
13 there is no evidence of deferential treatment of
14 either black or white or any other race employees and,
15 in fact, complainant received more training than most
16 employees do for the length of time that he was there,
17 so with that being said, I think this Commission
18 should uphold the finding of no probable cause. I
19 will leave it to Ms. Molling if she wants to add
20 anything else.

21 CHAIR SLASH: You have two minutes, 25 seconds.

22 MS. NORMAN: Thank you.

23 MS. MOLLING: No, I don't have anything in
24 addition to add. My name is Laura Molling, M as in
25 "Mary" O-L-L-I-N-G. I do believe the Commissioners

1 made the correct decision and ample training was
2 provided. That's all.

3 CHAIR SLASH: Thank you. At this time are there
4 any questions from Commissioners?

5 MS. NORMAN: Not from respondent.

6 CHAIR SLASH: Yes, you have -- I wanted to see if
7 there was a question before I gave you your two
8 minutes, but you have two minutes to respond.

9 MR. FILS-AIME: I have two minutes to respond?

10 CHAIR SLASH: You do, you have two minutes to
11 respond.

12 MR. FILS-AIME: Yes. According to the lady, she
13 said that they give me a lot of training. I spent
14 over -- When I filed the complaint that was within
15 three months of me being at Covanta Energy. Did the
16 defense provide to the Commission the training menu
17 that I received because I only sent it for the crane
18 cab department which I had to do sign up for, there's
19 a boiler that I had to do sign up for, there's LDI
20 that I had to do sign up for, and there's the water
21 plant that I also had to do sign up for. If I spent
22 three months prior to me filing -- I spent two and a
23 half months prior to me filing the complaint, I spent
24 at least over two months in the line station and I'd
25 been working the line station and I have not had one

1 mistake, I've not been written up for any mistake in
2 the line station, and she said she provided me the
3 training that was necessary. I did not spend more
4 than a week in the boiler by the time I filed the
5 complaint. I did not spend -- Actually, I did not
6 spend more than a day in the boiler because every time
7 they sent me somebody, somebody had to go and they
8 have to send me back to -- either they sent me to GPI
9 certification or they sent me to the line station, so
10 when I filed this complaint I knew that I was being
11 bamboozled. I never received training in the water
12 plant, I never received training in the boiler and I
13 only had short experience in the crane cab, so for her
14 to say that they give me all the training, that's
15 misinformation.

16 CHAIR SLASH: Thank you, that's your time. You
17 have two minutes to respond.

18 MS. NORMAN: Yeah, just very briefly I just would
19 like to point out that a lot of the training that
20 complainant is saying that he didn't receive was
21 because he was not mastering the initial training for
22 basic activities and there were several activities
23 which could have put people in danger, so we certainly
24 would not have escalated and advanced his training
25 knowing that he had not mastered more basic levels of

1 training. That's it, thank you.

2 CHAIR SLASH: Thank you. At this time,
3 Commissioners, do you have any questions? Okay,
4 commissioner Tolliver, this case was assigned to you.

5 COMMISSIONER TOLLIVER: I recommend we uphold the
6 Commission's finding of no probable cause under
7 Indiana Civil Rights Law.

8 CHAIR SLASH: Thank you. Is there a motion?

9 COMMISSIONER BLACKBURN: Second.

10 VICE CHAIR RAMOS: Motion and second.

11 CHAIR SLASH: Thank you. I'll take the motion
12 from Ms. Blackburn and the second from Vice Chair
13 Ramos.

14 DOCKET CLERK LOSTUTTER: All right, we will call
15 the roll. Commissioner Silberberg.

16 COMMISSIONER SILBERBERG: Aye.

17 DOCKET CLERK LOSTUTTER: Commissioner Blackburn.

18 COMMISSIONER BLACKBURN: Aye.

19 DOCKET CLERK LOSTUTTER: Commissioner Tolliver.

20 COMMISSIONER TOLLIVER: Aye.

21 DOCKET CLERK LOSTUTTER: Vice Chair Ramos?

22 VICE CHAIR RAMOS: Aye.

23 DOCKET CLERK LOSTUTTER: Chair Slash.

24 CHAIR SLASH: Aye.

25 DOCKET CLERK LOSTUTTER: The "ayes" have it.

1 It's upheld.

2 CHAIR SLASH: Thank you. The next case is the
3 case of Melvin Lipscomb versus Meijer, Case
4 PAra23040381. This is an oral argument and it's been
5 continued from March. Welcome back, Mr. Lipscomb, I
6 see you present. Is there representation for the
7 respondent?

8 DOCKET CLERK LOSTUTTER: No, there does not
9 appear to.

10 CHAIR SLASH: Okay, okay, with that being said,
11 you have five minutes.

12 MR. LIPSCOMB: Thank you, Ms. Chair. I won't
13 stand today, I've got leg issues, but I can't tell my
14 story in five minutes of the incident. I do request
15 that I have a copy of that video because the video in
16 my opinion now proves my position because I know that
17 this board based some of their decision on what the
18 company said along with what they saw on the video, I
19 know that to be true.

20 So my position now, Ms. Chair, is that this case
21 actually be revisited or set aside to be revisited
22 until the company gives me a disc or something to see
23 of that video because their narrative, see, I think my
24 position is their narrative of the video proves their
25 position, but now that I see they won't give me a link

1 that I can actually see, an attorney told me sometimes
2 that's evidence that they don't want you to prove your
3 narrative because it happened to you, and then along
4 with that I want to reiterate what the IC Code points
5 out concerning discrimination and this is one of the
6 things I pointed out the last time I was here, that
7 discrimination itself -- I'm sorry, Melvin Lipscomb.
8 Is it too late? M-E-L-V-I-N, L-I-P-S-C-O-M-B. You
9 probably know that. Okay.

10 See, I'm losing my focus here. So what I'm
11 saying is that I strongly suggest a continuance of
12 this case so that we give the company an opportunity
13 to provide me with the discovery that they say they
14 have which is a video so that I can prove point by
15 point that they did in fact discriminate me, and going
16 back to the IC Code I was making that discrimination
17 in and of itself is not just the acts or inactions of
18 a company or a person, it also is how it made the
19 person feel and a lot of times what happens is because
20 of the way it made complainants feel, that is what
21 provoked us to file the claim, so because of the way
22 they treated me at the store based on just their
23 assumption that I didn't belong in that environment, I
24 understand that because now we live in a neighborhood
25 where I caught myself looking at people that I didn't

1 think belonged because I had worked hard on our credit
2 to get us in a position to buy a house up in the
3 Mccords area and then when I see people coming up
4 there that basically just get a clean Social Security
5 number and there's nothing on it stopping them from
6 purchasing houses, then I told my wife, I said "I
7 think I'm feeling some kind of way about that" and she
8 said "Well, at least you're honest about it," so I can
9 understand why people think and feel like they feel
10 and think sometimes based on what they see --

11 CHAIR SLASH: One minute.

12 MR. LIPSCOMB: -- and they don't know any other
13 facts about the person, they're just basing it on
14 assumptions and what they see, and so my thing is it
15 made me feel extremely bad, and one of the things that
16 the store said in their response was that I acted
17 irritated and agitated and disgruntled about the way I
18 was treated. Well, of course I did because I was
19 angry, I didn't think what they had done to me, me
20 being a regular customer, was fair, and then
21 especially doing it in front of other customers up to
22 me stealing and I don't have to steal, nor was I
23 stealing then, so in order to tell my story of what
24 really happened, I think that it's in order that this
25 case be set aside for another continuance. I know

1 we've had plenty, but things happen and I know that
2 you guys normally vote together, so I don't want this
3 to be a vote just that you uphold what the
4 investigative party put before you, I want it to
5 really be looked into.

6 CHAIR SLASH: We're at time. Thank you. Are
7 there any questions by Commissioners since we do not
8 have any representation for the respondent here to
9 respond?

10 COMMISSIONER TOLLIVER: I don't have a question
11 but just clarification. The video was produced, it's
12 just that Mr. Lipscomb was unable to access it?

13 DOCKET CLERK LOSTUTTER: It was sent to him and
14 it was sent in such a way that he would be able to put
15 the code number in, which you need to do in order to
16 get everything to start moving to see it. It took me
17 a couple tries when I received it to get it working
18 but it did work and then I sent it to him and I sent
19 it once, I sent it a second time in such a way so that
20 he would have that and he would be able to plug the
21 code number in to open it up and get it moving and for
22 whatever reason apparently he was unable to do that.

23 CHAIR SLASH: Thank you.

24 COMMISSIONER TOLLIVER: I don't have any more
25 questions.

1 MR. LIPSCOMB: And for that reason, Chair Slash,
2 I'm not saying that it wasn't sent to me or anything,
3 but I never was able to access it, and a lot of times
4 those things are when you send them to somebody
5 read-only or whatever, you can't send it to somebody
6 else, basically, so I just requested to Clerk
7 Lostutter that the Board continue this another 30 days
8 and tell the company to send me a disc that we know we
9 can normally access rather than sending a video link
10 to Mr. Lostutter and then he sending it on, I believe
11 that's why I can't access it, but if you send me a
12 disc, there's no problem in that, so that's why I
13 think the continuance is that important because I
14 think that this will prove my story.

15 CHAIR SLASH: Thank you, thank you for sharing,
16 and thank you for sharing feedback. Commissioner
17 Tolliver.

18 COMMISSIONER TOLLIVER: I'd recommend that we
19 uphold the Commission's finding of no probable cause
20 under Indiana Civil Rights Law.

21 CHAIR SLASH: Thank you. Is there a motion or is
22 there discussion?

23 VICE CHAIR RAMOS: So moved.

24 CHAIR SLASH: Okay, I have a motion. Do we have
25 a second to the motion?

1 COMMISSIONER SILBERBERG: Second.

2 DOCKET CLERK LOSTUTTER: All right, we'll go
3 ahead and call the roll. Commissioner Silberberg.

4 COMMISSIONER SILBERBERG: Aye.

5 DOCKET CLERK LOSTUTTER: Commissioner Blackburn.

6 COMMISSIONER BLACKBURN: Nay.

7 DOCKET CLERK LOSTUTTER: Commissioner Tolliver?

8 COMMISSIONER TOLLIVER: Aye.

9 DOCKET CLERK LOSTUTTER: Vice Chair Ramos.

10 VICE CHAIR RAMOS: Nay.

11 DOCKET CLERK LOSTUTTER: Chair Slash?

12 CHAIR SLASH: I'm the tie-breaker here?

13 DOCKET CLERK LOSTUTTER: Yes.

14 CHAIR SLASH: Okay. Seeing as we have had
15 several other cases that were somewhat like this
16 before with links that we were unable to see, you are
17 present in the office today, is it something that we
18 could show him while he is here and continue to next
19 month in his interest?

20 DOCKET CLERK LOSTUTTER: I do not know. I can
21 make the attempt.

22 CHAIR SLASH: Okay, so we had a motion that was
23 on the floor, I was the tie-breaking vote and asked a
24 question. I will join the "nays" so that we may
25 continue to next month. Hopefully we will be able to

1 show you the link while you are here and not produce a
2 -- likely not be able to produce a disc, but we do
3 have access, we have been able to see it here that we
4 may be able to make a recommendation and move your
5 case along next month.

6 MR. LIPSCOMB: So can I have a disc? I mean we
7 can make a copy and just put it in the computer.

8 DEPUTY DIRECTOR FLEISCHHACKER: Have him talk to
9 the clerk after the --

10 CHAIR SLASH: Yeah, we'll have you talk to the
11 clerk after we conclude today.

12 MR. LIPSCOMB: Okay.

13 CHAIR SLASH: Okay.

14 MR. LIPSCOMB: And so the motion on the floor is
15 to continue until --

16 CHAIR SLASH: We will be continuing until next
17 month and you can speak with our clerk following
18 today.

19 MR. LIPSCOMB: Okay.

20 CHAIR SLASH: Okay?

21 MR. LIPSCOMB: That's fair.

22 CHAIR SLASH: Okay. So that concludes our Old
23 Business for today. We do have a couple of cases to
24 appoint in our New Business, the first case is Douglas
25 Vogel versus Pedcor Investments, 2000 XLI LP, that's

1 Case HOha23110912. They're requesting an oral
2 argument. That case I will assign to myself. The
3 next case, Marckennedy Fils-Aime versus Covanta
4 Energy, LLC, d/b/a Covanta Indianapolis, Inc., Case
5 EMrt24020070. I'll assign that case to Commissioner
6 Tolliver.

7 Okay, now we have some Review of ALJ Decisions,
8 and I believe we have one of them that is also here
9 for oral argument, correct?

10 DOCKET CLERK LOSTUTTER: No, we don't have --

11 CHAIR SLASH: Okay, fantastic. The first case is
12 Eric Harden versus John Johnson, Case HOrt23090732.
13 On April 28, 2023 the complainant, by private counsel,
14 filed a complaint against respondent and others in the
15 United States District Court for the Northern District
16 of Indiana, Case No. 1.23-CV-00179, based on the same
17 issues before the ICRC in complainant's August 2021
18 complaint.

19 Complainant, by ICRC Staff Attorney Fred Bremer,
20 moved to dismiss the complaint filed in this matter,
21 as Indiana Code Section 22-9-1-6(q) states that the
22 minute a complaint becomes the subject of an action in
23 federal court, all action shall immediately cease.
24 The Administrative Law Judge grants the Complainant's
25 motion and dismisses the complaint with prejudice 910

1 IAC 1-3-6. The objection period in this matter has
2 closed. Is there a motion to affirm?

3 VICE CHAIR RAMOS: So moved.

4 CHAIR SLASH: Is there a second?

5 DEPUTY DIRECTOR FLEISCHHACKER: Point of order
6 quickly.

7 CHAIR SLASH: Sure.

8 DEPUTY DIRECTOR FLEISCHHACKER: I think that
9 wasn't updated, that's not a correct encapsulation of
10 that case. The Harden-Johnson was a default order
11 from the ALJ.

12 DOCKET CLERK LOSTUTTER: Okay.

13 DEPUTY DIRECTOR FLEISCHHACKER: So can we
14 continue that until the next meeting, please?

15 CHAIR SLASH: Sure, in this case we will continue
16 and we will discuss in June.

17 The next case, ICRC/Destany Smith v. Caiqing Mo
18 and Mogen Property Management, that is Case
19 HOra21030076. This case was submitted to the
20 Commission on April 4th, 2024. The Administrative Law
21 Judge in this matter has determined that complainant
22 has sufficiently set out a prima facie case for a
23 housing discrimination claim against the respondent,
24 resulting in a default judgment issued on March 5th,
25 2024, which served as the basis for this order. The

1 objection period in this matter has closed. Is there
2 a motion to affirm?

3 VICE CHAIR RAMOS: So moved.

4 CHAIR SLASH: Is there a second?

5 COMMISSIONER BLACKBURN: Second.

6 CHAIR SLASH: Thank you. Motion Vice Chair
7 Ramos, second Commissioner Blackburn.

8 DOCKET CLERK LOSTUTTER: Call the roll.

9 Commissioner Silberberg.

10 COMMISSIONER SILBERBERG: Aye.

11 DOCKET CLERK LOSTUTTER: Commissioner Blackburn.

12 COMMISSIONER BLACKBURN: Aye.

13 DOCKET CLERK LOSTUTTER: Commissioner Tolliver.

14 COMMISSIONER TOLLIVER: Aye.

15 DOCKET CLERK LOSTUTTER: Vice Chair Ramos.

16 VICE CHAIR RAMOS: Aye.

17 DOCKET CLERK LOSTUTTER: Chair Slash.

18 CHAIR SLASH: Aye.

19 DOCKET CLERK LOSTUTTER: The "ayes" have it.

20 CHAIR SLASH: The next case, ICRC/Janise Clark
21 versus B&Z Rentals, Case H0ra21030082 submitted to the
22 Commission April 12, 2024. The Administrative Law
23 Judge in this matter has determined that the
24 complainant has failed to meet their burden of proof,
25 with a ruling in favor of the respondent, resulting in

1 the dismissal, with prejudice, of the complaint of the
2 complainant and the ICRC Director's charge. The
3 objection period in this matter has closed. Is there
4 a motion to affirm?

5 COMMISSIONER TOLLIVER: So moved.

6 VICE CHAIR RAMOS: Second.

7 CHAIR SLASH: Thank you. Motion Commissioner
8 Tolliver, second Vice Chair Ramos.

9 DOCKET CLERK LOSTUTTER: We'll call the roll.
10 Commissioner Silberberg.

11 COMMISSIONER SILBERBERG: Aye.

12 DOCKET CLERK LOSTUTTER: Commissioner Blackburn.

13 COMMISSIONER BLACKBURN: Aye.

14 DOCKET CLERK LOSTUTTER: Commissioner Tolliver.

15 COMMISSIONER TOLLIVER: Aye.

16 DOCKET CLERK LOSTUTTER: Vice Chair Ramos?

17 VICE CHAIR RAMOS: Aye.

18 DOCKET CLERK LOSTUTTER: Chair Slash.

19 CHAIR SLASH: Aye.

20 DOCKET CLERK LOSTUTTER: "Ayes" have it.

21 CHAIR SLASH: And the next case, Carl Garland
22 versus Horizon Bank, submitted to the communication on
23 December 21st, 2023. The Administrative Law Judge in
24 this matter has determined that the respondent is
25 entitled to their Motion for Summary Judgment, that

1 their designated evidence shows that the complaint of
2 the complainant had no genuine issue of material fact
3 and is dismissed, with the respondent's Motion for
4 Summary Judgment granted. I understand we have oral
5 arguments for this case today?

6 DEPUTY DIRECTOR FLEISCHHACKER: They were
7 scheduled because there were objections. However, the
8 complainant withdrew the objections this morning, so
9 that oral argument is now moot.

10 CHAIR SLASH: Therefore, we need an affirmation
11 of this decision as found?

12 DEPUTY DIRECTOR FLEISCHHACKER: Correct.

13 VICE CHAIR RAMOS: So moved.

14 DEPUTY DIRECTOR FLEISCHHACKER: Yeah, the
15 Commission would determine whether to affirm it or
16 not.

17 CHAIR SLASH: Thank you. Motion --

18 VICE CHAIR RAMOS: Motion to affirm.

19 CHAIR SLASH: Thank you. Motion to affirm by
20 Vice Chair Ramos.

21 COMMISSIONER TOLLIVER: Second.

22 CHAIR SLASH: Second Commissioner Tolliver.

23 DOCKET CLERK LOSTUTTER: We'll call the roll.
24 Commissioner Silberberg.

25 COMMISSIONER SILBERBERG: Aye.

1 DOCKET CLERK LOSTUTTER: Commissioner Blackburn.

2 COMMISSIONER BLACKBURN: Aye.

3 DOCKET CLERK LOSTUTTER: Commissioner Tolliver.

4 COMMISSIONER TOLLIVER: Aye.

5 DOCKET CLERK LOSTUTTER: Vice Chair Ramos.

6 VICE CHAIR RAMOS: Aye.

7 DOCKET CLERK LOSTUTTER: Chair Slash.

8 CHAIR SLASH: Aye.

9 DOCKET CLERK LOSTUTTER: The "ayes" have it.

10 CHAIR SLASH: Okay, and the next series of cases
11 are automatically confirmed. I'll just be reading
12 them into the record. The first case, ICRC/De'Andre
13 McDade and DeSean Bartlett versus Rafayru Investments,
14 LLC & Prestige 1, Case HOra22020034.

15 The next case, Gregory Wilson, Sr., in his
16 official capacity as Executive Director of the Indiana
17 Civil Rights Commission versus Sentinel Real Estate
18 Corporation, Case HOra23060551.

19 The next case, ICRC/Teresa Sparrow versus
20 Advantix Property Management, Case HOha23010064.

21 And finally, ICRC/Amy Lou Peterson versus Crooked
22 Creek Homeowners Association, Case HOha19040215.

23 At this time I'd like to call for the Executive
24 Director's report.

25 DEPUTY DIRECTOR FLEISCHHACKER: Yes, fantastic.

1 CHAIR SLASH: It's you! It's you!

2 DEPUTY DIRECTOR FLEISCHHACKER: Yay, I've
3 arrived! All right, a few things to go over from
4 ICRC. As far as some events, last month we held our
5 Fair Housing Virtual Panel at which we had roughly 150
6 attendees online, so we had a great participation in
7 that. Our External Affairs Team has bumped up the
8 types of public outreach that they're doing. We
9 started C.O.R.E. a couple weeks ago at the downtown
10 public library, they're going to be in Terre Haute I
11 think in a couple weeks and we've got a number of
12 other libraries and community centers throughout
13 central Indiana and then also up in the northwest
14 Indiana area that we're focusing on. As far as
15 C.O.R.E. events go, we've had great attendance at
16 those so far and that's resulted in some inquiries for
17 intake purposes as well.

18 Coming up we've got the Governor's Award as part
19 of the Summer Celebration on June 25th, so we
20 encourage the Commissioners to attend that. We'll
21 make sure that if External Affairs has not already
22 done that calendar invites be extended to you for
23 those.

24 A couple days before that, on June 22nd is the
25 Civil Rights Night, Negro Leagues Night for the

1 Indianapolis Indians, that's a Saturday, so we
2 encourage participation and attendance at that as
3 well. Again we'll make sure that our External Affairs
4 folks get invites out to Commissioners to see if
5 you're interested in attending.

6 And then we are currently planning on and
7 hopefully on track to have another conference. This
8 year we're looking at September/October. For days
9 right now we're working with hotels to seek out a
10 couple days for that conference. Once that's
11 finalized we'll make sure that the Commissioners are
12 aware of those dates, and we already do have some
13 sponsorship confirmations for the conference even
14 without dates planned yet, so hopefully everything
15 will come together and then we'll be able to pursue
16 that and then get that fully scheduled and promoted.

17 I mentioned in prior Commission meetings we'll be
18 engaging in rulemaking here soon. Because of some
19 laws that were passed over the last couple years, we
20 do need to add factors for the civil penalty that can
21 be issued by the Commission and we're just going to be
22 incorporating in the factors that ALJs on the federal
23 level use to assess federal Fair Housing cases, so
24 those are just going to be incorporated into our
25 rules. We're also going to be looking at making like

1 nonsubstantive corrections and changes to the
2 administrative rules such as updating the Commission's
3 address, it may be changing. Right now it's a lot of
4 "he/she" or "his/her," just replacing those with like
5 "they," those kinds of things, so doing a lot of those
6 kind of nonsubstantive changes which should pretty
7 easily go through, and then in the next year or two
8 look at making other substantive changes in compliance
9 with some of the other laws that have been passed
10 recently that go into effect soon regarding the
11 ultimate authority status for the Commission and how
12 that plays out in the administrative rulemaking
13 process.

14 As far as some metrics go, we are a little bit up
15 on calls coming into the Agency, about 5 percent with
16 just under 3300 calls so far in 2024. Our inquiries
17 have stayed pretty flat compared to the same time in
18 2023. Our formalized complaints are down a little bit
19 from last year but we're still on track to be in the
20 850 to 900 range if our current trends continue. Last
21 year we had a fairly busy year and then with 980
22 complaints we're not quite on track for that but we're
23 still on track to be up there. Our closures are up so
24 far this year about just under 30 percent, so we're
25 closing a lot more cases out, and then so far through

1 April 2024 we've had over 260 hundred thousand dollars
2 that we've obtained for complainants through our
3 mediation services, which is down from the same time
4 last year. However, last year we had had a couple
5 large settlements that had bumped that number up
6 significantly. At the end of April we had 44 open
7 litigation cases and so far through that time in 2024
8 we have already closed 24 this year and I know we
9 closed several more this month as well, so our numbers
10 I think are tracking well with where we were last year
11 and our staff continue to do great work and a high
12 volume of work but still putting out high quality
13 work. Any questions from the Commissioners?

14 VICE CHAIR RAMOS: (Shakes head negatively.)

15 COMMISSIONER TOLLIVER: (Shakes head negatively.)

16 CHAIR SLASH: Do you have any questions,
17 Commissioner Silberberg?

18 COMMISSIONER SILBERBERG: No, I don't.

19 COMMISSIONER BLACKBURN: Not connected to your
20 report today, but I'm curious if you have a feel for
21 the number of the actual public people using this
22 facility.

23 DEPUTY DIRECTOR FLEISCHHACKER: What do you mean
24 by --

25 COMMISSIONER BLACKBURN: Using this building.

1 DEPUTY DIRECTOR FLEISCHHACKER: What do you mean
2 by "using the building"? Because I know that there
3 are several agencies in the building, like Department
4 of Revenue, and so folks come in and do that, so --

5 COMMISSIONER BLACKBURN: Right, so I'm really
6 asking for your feel for, your opinion, we're here to
7 serve the public, but I suspect that if you are not
8 employed with or have an immediate need to use the
9 government that the public never enters these
10 buildings.

11 DEPUTY DIRECTOR FLEISCHHACKER: I see a fair
12 number of members of the public who come into this
13 building and/or the South Building. I think over the
14 last several years, especially during COVID, there are
15 a lot of services that became available online, so a
16 lot of I think members of the public are able to get
17 their government needs met through online services, so
18 I think that may anecdotally have reduced individuals
19 who are coming into the buildings, but there's still
20 quite a few people I see that are downstairs, like I
21 said, in the Department of Revenue, especially during
22 tax season. Oftentimes or occasionally BMV will have
23 kind of a remote branch set up down in the lobby as
24 well where individuals can come in and take care of
25 some of their BMV needs here, and I know like in the

1 South Building a lot of people come in for FSSA or DCS
2 related matters and take care of things there where
3 those offices are located, so I think the public is
4 still coming in and utilizing the services that are
5 available in these buildings, but a lot of things have
6 been made available online so that they can access
7 them through that way.

8 COMMISSIONER BLACKBURN: Thank you.

9 DEPUTY DIRECTOR FLEISCHHACKER: Uh-huh.

10 CHAIR SLASH: Good question. Seeing no other
11 questions, thank you, and thank you for the update. I
12 don't think we have a calendar appointment for the
13 Governor's Award, so if a calendar appointment can be
14 sent that would be helpful.

15 DEPUTY DIRECTOR FLEISCHHACKER: Absolutely.

16 CHAIR SLASH: If you want us present, calendar
17 appointments are generally the best.

18 DEPUTY DIRECTOR FLEISCHHACKER: Yep.

19 CHAIR SLASH: With that in mind, do we have any
20 conflicts with the June 17th meeting date? We'll be
21 back at 1 o'clock. Okay. It's a very nice report.
22 Commissioner Silberberg, you're missing out, it's
23 glossy, we have it in front of us of all of the things
24 that we missed last year and the things we were a part
25 of. Highly recommend everybody take some time to go

1 through it.

2 DEPUTY DIRECTOR FLEISCHHACKER: It is available
3 on the ICRC website as well.

4 CHAIR SLASH: Thank you. It's available on the
5 website. You don't get the glossy but you can see it
6 online.

7 COMMISSIONER SILBERBERG: Thank you.

8 CHAIR SLASH: And with that in mind, if June 17
9 is an okay date for everyone, we will see you then,
10 and that concludes the May 2024 meeting of the Indiana
11 Civil Rights Commission.

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CERTIFICATE

STATE OF INDIANA

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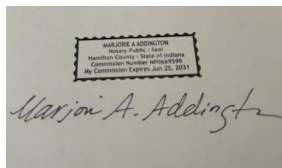
I, Marjorie A. Addington, the undersigned Court Reporter and Notary Public residing and maintaining offices in the City of Carmel, Hamilton County, Indiana, do hereby certify:

That I reported to the best of my ability in machine shorthand all of the words spoken by all parties in attendance during the course of the deposition/hearing;

That I later reduced my shorthand notes into the foregoing typewritten transcript form, which typewritten transcript is a true record to the best of my ability of the hearing;

That I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or an employee of such attorney or counsel, and that I am not financially interested in this action.

IN WITNESS HERETO, I have affixed my Notarial Seal and subscribed my signature below this 24th day of MAY, 2024.



Notary Public
County of Residence: Hamilton
My Commission Expires on: JUNE 25, 2031
NOTARY #NP0669599