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INDIANA
CIVIL RIGHTS COMMISSION

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BEFORE THE STATE OF INDIANA

CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF AUGUST 22, 2014

ORIGINAL

- - -

PROCEEDINGS

in the above-captioned matter, before the Indiana
Civil Rights Commission, Steven A. Ramos,
Chairman, taken before me, Lindy L. Meyer, Jr., a
Notary Public in and for the State of Indiana,
County of Shelby, at the Indiana Government
Center South, Conference Center, Room A, 402 West
Washington Street, Indianapolis, Indiana, on
Friday, August 22, 2014 at 11:07 o'clock a.m.

- - -

William F. Daniels, RPR/CP CM d/b/a
ACCURATE REPORTING OF INDIANA
12922 Brighton Avenue
Carmel, Indiana 46032
(317) 848-0088

1 APPEARANCES:

2 COMMISSION MEMBERS:

3 Steven A. Ramos, Chairman
4 David C. Carter
5 John E. Garcia
6 Barry Baynard
7 Charles D. Gidney

8 INDIANA CIVIL RIGHTS COMMISSION
9 By Jamal Smith, Director/Secretary
10 & Akia Haynes, Deputy Director
11 Indiana Government Center North
12 100 North Senate Avenue, Room N103
13 Indianapolis, Indiana 46204
14 On behalf of the Commission.

15 OTHER COMMISSION STAFF PRESENT:

16 Noell Allen
17 Pamela Cook
18 Debbie Rincones-Chavez
19 Marco Deckard
20 Erin Certolic
21 Andrew Hess

22 ALSO PRESENT:

23 David Murphy
Amber Lumpkin
Brian Lough

- - -

1 11:07 o'clock a.m.
2 August 22, 2014

3 - - -

4 CHAIRMAN RAMOS: Good morning.

5 MS. ALLEN: Good morning.

6 MS. HAYNES: Good morning.

7 CHAIRMAN RAMOS: This is the Indiana
8 Civil Rights Commission meeting on August 22nd at
9 11 o'clock. We will open the meeting. We have
10 an agenda that's in front of us. The first item
11 that we have on the agenda is the approval and
12 adoption of the meeting minutes.

13 (Comm. Carter arrived.)

14 CHAIRMAN RAMOS: You have those in
15 your packets. You received those ahead of time.
16 I would like a motion to approve of the minutes.

17 COMM. GIDNEY: So moved.

18 COMM. BAYNARD: Second.

19 CHAIRMAN RAMOS: The motion's been
20 approved and seconded. All those in favor,
21 signify by saying aye.

22 COMM. BAYNARD: Aye.

23 COMM. CARTER: Aye.

COMM. GARCIA: Aye.

1 COMM. GIDNEY: Aye.

2 CHAIRMAN RAMOS: Aye.

3 Any opposition?

4 (No response.)

5 CHAIRMAN RAMOS: Any abstentions?

6 (No response.)

7 CHAIRMAN RAMOS: Motion carries.

8 The next item that we have on the list --
9 and I see Comm. Carter has joined us.

10 Comm. Carter, would you like to take over?

11 COMM. CARTER: Oh, no, you're doing a
12 fine job.

13 CHAIRMAN RAMOS: Well, I just
14 started, so I had opportunity.

15 All right. So, with that, we'd like to
16 have the Financial Report by Ms. Cook.

17 MS. COOK: Good morning.

18 CHAIRMAN RAMOS: Good morning.

19 MS. HAYNES: Good morning.

20 MR. SMITH: Good morning.

21 MS. COOK: You've had the opportunity
22 to review the Financial Report, and if you have
23 any questions, I'd like to go ahead and entertain

1 those at this time.

2 (No response.)

3 MS. COOK: Hearing none, the next
4 item, regarding the stipends, I'm still waiting
5 on Commissioners' packets so I can get your
6 previous months' stipends paid to you. If you
7 have those ready, I can take those today, or if
8 not, you can mail them at a later time. If you
9 need another packet, just let me know.

10 Also, the last item that I had is
11 regarding the travel per diem. The financial
12 server has changed now and will no longer be
13 paying the regular per diem to Commissioners.
14 They're only paid now for overnight travel, and
15 that's statewide for all employees. So, on your
16 travel voucher, you will only be reimbursed for
17 the mileage unless you're staying overnight;
18 okay? All right.

19 CHAIRMAN RAMOS: Okay.

20 MS. COOK: Thank you.

21 CHAIRMAN RAMOS: Any questions?

22 (No response.)

23 CHAIRMAN RAMOS: Okay. Now, on to

1 Old Business, we have Reports from Commissioners
2 on Complaint Appeals.

3 Comm. Carter?

4 COMM. CARTER: Yes. In the case
5 of -- I can't read the name -- David Eaton [sic]
6 versus Kindred Healthcare doing business as
7 Regency Place of Greenwood, I recommend we uphold
8 the Deputy Director's no probable cause finding.

9 CHAIRMAN RAMOS: Can I get a second?
10 Do we need a motion?

11 COMM. BAYNARD: So moved.

12 CHAIRMAN RAMOS: Okay.

13 COMM. GIDNEY: Second.

14 CHAIRMAN RAMOS: All those in favor,
15 signify by saying aye.

16 COMM. BAYNARD: Aye.

17 COMM. CARTER: Aye.

18 COMM. GARCIA: Aye.

19 COMM. GIDNEY: Aye.

20 CHAIRMAN RAMOS: Aye.

21 Any opposed?

22 (No response.)

23 CHAIRMAN RAMOS: Motion carries.

1 In the Kindred Transitional Care and
2 Rehabilitation, please, Mr. Carter?

3 COMM. CARTER: That's the only case I
4 have.

5 CHAIRMAN RAMOS: Well, that's all one
6 big one.

7 COMM. GARCIA: It's one.

8 CHAIRMAN RAMOS: Yeah, that's
9 correct. That was all one for Comm. Carter.
10 Comm. Garcia?

11 COMM. GARCIA: In the case of
12 Marcelo & Florencia Juarez Santamaria versus
13 Longacre Mobile Home Park, I'd like to defer that
14 until next month's meeting. I'm still working on
15 that.

16 CHAIRMAN RAMOS: All right. We will
17 defer that to the following month.

18 Comm. Baynard?

19 COMM. BAYNARD: Yes. In the case of
20 Christa J. Wood versus My Plastic Surgery Group,
21 I would recommend to the Commission that we
22 uphold the Deputy Director's findings of no
23 probable cause.

1 CHAIRMAN RAMOS: All right. I need a
2 motion to agree with Comm. Baynard's --

3 COMM. CARTER: So moved.

4 CHAIRMAN RAMOS: -- recommendation.
5 And a second?

6 COMM. GIDNEY: Second.

7 CHAIRMAN RAMOS: Motion's been made
8 and seconded. All those in favor, signify by
9 saying aye.

10 COMM. BAYNARD: Aye.

11 COMM. CARTER: Aye.

12 COMM. GARCIA: Aye.

13 COMM. GIDNEY: Aye.

14 CHAIRMAN RAMOS: Aye.

15 Any opposition, any abstentions?

16 (No response.)

17 CHAIRMAN RAMOS: Motion carries.

18 All right. Next item on the agenda are
19 public comments.

20 MS. RINCONES-CHAVEZ: None.

21 CHAIRMAN RAMOS: None. All right.

22 So, we move on to New Business and the
23 Assignment of New Appeals. So, we have -- we

1 have three of them. I'm just going to go down
2 the order, so Comm. Carter, if you would please
3 take Gayle Harris versus Fort Wayne Community
4 Schools.

5 COMM. CARTER: Okay.

6 CHAIRMAN RAMOS: Comm. Garcia, Steven
7 Emery versus Red Gold Transport.

8 COMM. GARCIA: Okay.

9 CHAIRMAN RAMOS: And I will take the
10 next one, which is Cynthia Mayhew versus Sav A
11 Lot Foods.

12 Next item on the agenda is Finding of
13 Facts, Conclusions of Law and Order. Those are
14 in your packets. This is Tashia Weaver and
15 Botkin Trophies.

16 MR. SMITH: Judge Allen?

17 CHAIRMAN RAMOS: Good morning.

18 MS. ALLEN: Good morning.

19 MS. HAYNES: Good morning.

20 MS. ALLEN: So, in your packet, you
21 have the findings of fact, conclusions of law and
22 order for this particular case, and as can you
23 probably tell by the order, there was no hearing

1 in this matter. It was a motion for summary
2 judgment on the issue of the number of employees.
3 So, if you have any specific questions regarding
4 the facts or the law of that case, I'm here to
5 answer those questions, but at this time, if you
6 would like to take a vote on it, that is fine as
7 well.

8 CHAIRMAN RAMOS: Are there any
9 questions?

10 (No response.)

11 CHAIRMAN RAMOS: All right. All
12 those in favor of approval -- oh, I'm sorry a
13 motion to approve.

14 COMM. CARTER: I move we accept the
15 findings of fact, conclusions of law and order.

16 CHAIRMAN RAMOS: Comm. Carter has
17 moved to accept those findings. I need a second.

18 COMM. BAYNARD: Second.

19 CHAIRMAN RAMOS: Comm. Baynard has
20 seconded, so those in favor, signify by saying
21 aye.

22 COMM. BAYNARD: Aye.

23 COMM. CARTER: Aye.

1 COMM. GARCIA: Aye.

2 COMM. GIDNEY: Aye.

3 CHAIRMAN RAMOS: Aye.

4 Any opposition?

5 (No response.)

6 CHAIRMAN RAMOS: Motion carries.

7 MS. ALLEN: Thank you.

8 CHAIRMAN RAMOS: Thank you.

9 There are no Consent Decrees [sic], so the
10 next item we have on the agenda is the Oral
11 Argument -- Arguments, with Amber Lumpkin versus
12 American Heating & Cooling.

13 MR. SMITH: You welcome them to
14 sit -- take seats up front?

15 CHAIRMAN RAMOS: Yes.

16 So, Amber, Ms. Lumpkin, if you would like
17 to approach.

18 And then sir, you're representing?

19 MR. MURPHY: American Heating &
20 Cooling.

21 CHAIRMAN RAMOS: And your name?

22 MR. MURPHY: David Murphy.

23 CHAIRMAN RAMOS: David Murphy?

1 MR. MURPHY: M u r p h y.

2 CHAIRMAN RAMOS: Thank you.

3 MR. MURPHY: Thank you.

4 CHAIRMAN RAMOS: Good morning to each
5 of you. So, the process as we follow through
6 this is to provide each an opportunity to provide
7 your oral arguments, and then you both get a
8 chance to listen, and then you'll give closing
9 arguments as well, and we put a time line on each
10 of that so we don't spend all day on it. I
11 believe it's ten minutes for each of the
12 arguments, so you have an opportunity for ten
13 minutes, and we'll watch the time.

14 We'll let you go first, Ms. Lumbert [sic],
15 and then Mr. Murphy will follow, and then you'll
16 get a chance to provide your closing comments as
17 well, and I'll reverse the order for that -- no,
18 I can't do that. We'll follow in the same order.

19 MS. LUMPKIN: Okay. I am not -- I
20 don't have a lawyer, so I'm not real sure what
21 you're asking me to do. So, I just state my
22 case, why I'm here and why I objected to the
23 ruling?

1 CHAIRMAN RAMOS: That's right.

2 MS. LUMPKIN: And that's -- you give
3 me ten minutes to tell you why I object to the
4 ruling?

5 CHAIRMAN RAMOS: Yes.

6 MS. LUMPKIN: And then do I have to
7 show you any evidence or --

8 CHAIRMAN RAMOS: No. I mean all of
9 the information has been provided. It's already
10 been previously submitted.

11 MS. LUMPKIN: Right.

12 CHAIRMAN RAMOS: So, this is your
13 opportunity to present your perspective in front
14 of the Commissioners here and, you know, why we
15 should, you know, reverse the decision or make a
16 change, any of those kind of things.

17 MS. LUMPKIN: So, kind of what I
18 wrote for the appeal is what I want to say?

19 CHAIRMAN RAMOS: It's your time.

20 MS. LUMPKIN: I'm sorry; I'm a little
21 nervous. My name is Amber Lumpkin. I worked for
22 American Heating & Cooling. I started back in
23 October 2010, and then I was laid off.

1 They were saying that I didn't show enough
2 proof on the sexual harassment and why I was laid
3 off. They tried to say it was because I didn't
4 help him on a trial, but they never shown any
5 facts to prove that there was any type of trial.
6 They never even shown any proof that I missed
7 work or my job was bad.

8 I did show proof that I was sexually
9 harassed, from September of that year all of the
10 way until I was permanently laid off. There
11 was -- he exposed himself to me. He would ask
12 sexual favors from me. He would put his hands on
13 me, and I would tell him no.

14 We would have many conversations about
15 this. I have audio tape, which I played, and I
16 have a piece of paper on where other people
17 listened to it, and they can clearly hear me tell
18 him no. He asked me if I would want to suck his
19 dick, jack him off, or fuck him, and I said no.
20 There's many times that he would show me
21 pornographic. He would go up and above sexual
22 harassment totally. I mean there's so many
23 things that happened that -- it does sound

1 unbelievable, but it really did happen.

2 And yes, on June 5th and on March 24th, I
3 was unemployed at that time, but sexual
4 harassment did happen from September all of the
5 way until I was laid off, which I was employed
6 then. I -- the tapings took place in November,
7 when I was employed, and there are discussions
8 where I taped him saying what he said to me.

9 And I went in on May 24th to talk to him
10 about -- well, actually he called me and wanted
11 me to come in and talk to him about bringing
12 people back from unemployment. So, I went in and
13 talked to him, and that was when he done his last
14 sexual thing to me.

15 I walked over when I was getting ready to
16 leave, and he put his hands on my butt, rubbed up
17 against my breasts, and then I threw his arms
18 back and he went over to his desk, and I told
19 him, I said, "I'm leaving now," and he said -- he
20 put his hands around his private part and said,
21 "You're going to let an old man suffer?" And the
22 guys walked in the door then, and that pretty
23 much put an end to that.

1 And that is -- I just wanted to let you
2 guys know that it wasn't -- he didn't lay me off
3 permanently because of the trial. There was no
4 trial that I was asked to help on. When I was at
5 work when I was employed, he -- I got all of the
6 information for him, laid it on his desk, because
7 he had an attorney for that, so he didn't need my
8 help because he had an attorney.

9 I never said I wouldn't help him. I was
10 never asked to help him. When he laid me off for
11 work -- or from work, I was told that I would be
12 back, because really I was kind of never laid
13 off, because he would call me consistently to
14 come in and help him. It wasn't just once or
15 twice, it was quite a bit, and it wasn't for
16 simple things.

17 And when I come in, he would do -- you
18 know, say -- make comments or whatever to me, or
19 touch me or hug me. I mean he overstepped his
20 boundaries several, several times, and I told him
21 no several, several times, so many -- I can't
22 tell you how many times I told him no.

23 We sat down and had conversations about

1 this, that I told him he was mixing up his
2 feelings, that I was doing a good job for him and
3 helping the business come back, that he thought
4 that he liked me, and he said that we were -- we
5 had a sexual relationship. We never had a sexual
6 relationship. If we did, it was in his own mind.

7 I never -- I have a boyfriend, been with
8 this boyfriend. That's actually when it started
9 is when he found out I moved in with somebody,
10 then all of this started progressing a little at
11 a time, all of the way up to him exposing himself
12 to me. He exposed himself to me three times.

13 He -- on June 5th I went in there to talk
14 to him about bringing people back from
15 unemployment, and when he come up and hugged on
16 me and everything, I backed him up and told him,
17 "You know, I'm not going to do this no more. I'm
18 going to be right here. I'm going to do my job
19 at the desk. I'm not going to go on rides with
20 you no longer. I'm not going to go above my
21 duties of this position."

22 And when I told him that, that's when he
23 told me, "Well, you're permanently laid off," and

1 he shoved me out the door, and he -- my boyfriend
2 was in the car, and he yelled at him, "If you
3 want a piece of me, come and get a piece of me."
4 You know, Brian never stepped a foot out the
5 door.

6 I mean he just caused so much chaos
7 throughout my time I worked there from September
8 to April, when I got laid off. The reason why I
9 didn't leave was because I would talk to him and
10 he would say he wouldn't -- he promised he
11 wouldn't do it ever again. I mean he offered me
12 money to have sex with him. If he went to a
13 jobsite, he'd lay cash down and say, "I'll give
14 you this if you'll do this," you know.

15 And I tried to explain and talk to him the
16 best I could to -- you know, I am a single
17 mother, and I needed a job that was close to
18 home. I was making eleven dollars an hour, and
19 then he re-called me back, and if I wasn't doing
20 a good job, why would he re-call me back?

21 I was making nine to help him get the
22 business up, and he promised to get me up to
23 twelve by the time I was -- by the time I kept

1 working with him, because I was -- Debbie made me
2 office manager, so I stayed with him. It was
3 close to home, good money.

4 I actually liked the place I worked for, I
5 liked everybody I worked with. I enjoyed working
6 there except for when Murrell started doing all
7 of the sexual harassment that he done to me. He
8 would look down my shirt, and that's why I had to
9 go buy a lot of these to wear under my shirts.
10 He said that they were low cut, and most of them
11 aren't low cut.

12 When you, you know, kind of lean over
13 and -- kind of lean over when you're doing
14 something, he smacked my butt or rubbed my butt
15 or, you know, tried to rub the front of me. He
16 would put his hands in front of his crotch. He
17 exposed himself.

18 I have it on audio tape where he asked me
19 if I would jack him off or, you know, "Can I
20 raise hell with you?" I said no. You know, he
21 said, "Well, you don't have to make it a federal
22 case." And one part of the trans -- the transfer
23 that we had when we done the -- the transcript,

1 you know, he admitted that he touched my boobs,
2 that -- he admitted that he did touch my butt, he
3 admitted -- I asked him a question, "Well,
4 wouldn't you consider all of this sexual
5 harassment?" He said, "No."

6 So, I don't think he understands where --
7 what a line is. You know, yes, we joked around,
8 everybody had a good time as far -- but there's
9 appropriate and inappropriate as a line, and he
10 went well over his line. And they tried to say
11 that I was fired because of some trial, but they
12 never showed proof that there was even a trial.

13 They never showed proof of time cards of
14 where I missed time. They never showed any type
15 of write-ups. They showed no proof whatsoever
16 that I had done a bad job, that I had any type of
17 write-ups, anything about the trial, but I showed
18 a lot of proof of sexual harassment that he done
19 to me.

20 CHAIRMAN RAMOS: Okay. All right.
21 So, basically you have 30 seconds before I pass
22 it over.

23 MS. LUMPKIN: I know he's going to

1 try to stipulate on May 24th to June 5th that I
2 was unemployed at that time. Yes, I was laid
3 off, as Murrell asked me to be laid off as
4 opposed to unemployment, but he sexually harassed
5 me from September all of the way to April, and I
6 was employed with him.

7 CHAIRMAN RAMOS: Okay. Thank you.

8 Any questions?

9 COMM. CARTER: Not yet.

10 CHAIRMAN RAMOS: All right. Okay.

11 So, Mr. Murphy?

12 MR. MURPHY: Thank you. May it
13 please the Commission, Ms. Lumpkin. We are not
14 here to try the case. Judge Allen tried the
15 case. She spent all day trying the case. She
16 looked the witnesses in the eye. She heard their
17 testimony. She spent a great deal of time asking
18 questions to make sure that she understood what
19 was going on.

20 This body, I would suggest, has a duty to
21 determine whether there is evidence in the record
22 which supports Judge Allen's findings of fact,
23 not to decide whether or not you believe what she

1 believed. This is an appellant tribunal, not a
2 fact-finder. I appreciate, with all due respect,
3 that Ms. Lumpkin doesn't understand that, and I'm
4 sorry to have to make the argument in this
5 fashion, but I think that's the law.

6 At the hearing, at the trial, there were
7 charges and countercharges. There were
8 admissions and denials. Evidence was introduced
9 which was controverted. In the last ten minutes,
10 to be quite frank and with all due respect, I
11 heard things I didn't hear at the trial. There
12 were statements made by Ms. Lumpkin which, in my
13 opinion, are not part of the record.

14 And for purposes of the record, I have to
15 object on behalf of my client, because he's not
16 here to be able to answer that, nor is this a
17 proper forum for that to be done. Many of the
18 things which she has presented to you in fact are
19 not there, in the record.

20 It's not my job, I don't think, at this
21 point to go through every one of those things
22 that she's trying to put in here as new evidence.
23 I would rather take the broader approach and

1 suggest to you what we believe the facts are as
2 found by Judge Allen.

3 Ms. Lumpkin was an employee of my client.
4 My client is a single proprietor slash corporate
5 business. He runs the business, he gets the --
6 makes the sales, he arranges the service. If he
7 doesn't produce, no one has a paycheck. There
8 were times, as shown by the record, the evidence
9 produced at trial, where times were very, very
10 tough and everybody got laid off.

11 The most recent time was just before all
12 of the incidents that Ms. Lumpkin referred to
13 allegedly occurred. The uncontradicted evidence
14 in the record is Ms. Lumpkin was laid off from
15 employment April 3rd, 2012. We introduced at
16 trial the evidence of the unemployment
17 compensation she received beginning the very next
18 week.

19 She didn't mention that in her
20 presentation, but it's important to remember that
21 if you're employed, you can't draw unemployment
22 compensation. So, she represented to the State
23 of Indiana that she was not an employee anymore,

1 and in fact, the evidence at trial showed she had
2 been laid off. And it wasn't just her, it was
3 everybody. There wasn't enough business to pay
4 payroll, so Mr. Loveless laid everybody off.

5 Now, the evidence at trial showed that
6 after that date, Mr. Loveless expended a great
7 deal of effort to try and collect receivables
8 that were owing to the business. One of those
9 involved a man that just refused to pay a large
10 bill, and it was set for trial.

11 Mr. Loveless is a heating and air
12 conditioning fellow. That's what he's done his
13 whole life. He is not, per se, an administrative
14 person. That's why he hired folks to work for
15 him.

16 So, on two occasions he asked Ms. Lumpkin
17 to please help him prepare for the trial against
18 the man that owed the company money, and he
19 explained to her, as it's in the record, that
20 they needed the money this man owed in order to
21 pay the wages for the people that had been laid
22 off.

23 And the record is very, very clear; she

1 would have none of it. She was not going to
2 help. Now, without going into all of the
3 testimony, it was very clear that on those two
4 occasions she flat-out refused to do anything to
5 help Mr. Loveless prepare for trial. And there
6 were words exchanged and it did get heated, and
7 Mr. Loveless explained to Judge Allen exactly
8 what he said and why he said it and why he was so
9 angry.

10 I believe, in all due respect, it's very
11 disingenuous and inappropriate for Ms. Lumpkin to
12 say she knew nothing about a trial when in fact
13 that was the key to her and all of the other
14 employees being called back to work.

15 Mr. Loveless, in my opinion, was within his
16 rights as an employer not to re-call a person who
17 had refused to help maintain the business, the
18 livelihood of his, at a time when money, cash
19 flow, was critical.

20 There was no sexual harassment involved,
21 and it's important also to remember that this
22 particular complaint focuses on a particular
23 time. It's the time after she was terminated by

1 layoff. The evidence, which Ms. Lumpkin put in
2 her complaint, focuses on events that allegedly
3 occurred after April 3rd, 2012, when she wasn't
4 even an employee.

5 There's nothing in the record, no
6 pleading, nothing submitted by Ms. Loveless
7 [sic], that says, "Prior to that time, I was
8 harassed." She added that at the trial. She
9 seemed to say it had something to do with not
10 being re-called to work, but she never made that
11 connection.

12 In fact, during the trial, there were
13 times when Mr. Loveless admitted that he and
14 Ms. Lumpkin had had a sexual affair of sorts.
15 Now, he was quite frank about it, and he told
16 Judge Allen, "Yes, certain things happened."

17 Ms. Allen, in her findings, very
18 specifically focused on the comments that were
19 not made by Ms. Lumpkin, and those comments were,
20 "I didn't tell him no." Now, she can come in
21 here, after already having a trial and not
22 prevailing, and tell you that "Oh, yes, I said no
23 all of those times."

1 Well, at the time of the trial, in front
2 of Judge Allen, that's not the way it came into
3 evidence, and I would suggest again, we're not
4 here to retry the case that Judge Allen tried.
5 The evidence is clear. Whatever happened,
6 happened after Ms. Lumpkin was no longer an
7 employee of the employer, and for that reason,
8 she has no basis to maintain this action.

9 I would also suggest that when you look at
10 the findings of fact made by Judge Allen, which
11 are thorough and detailed and comprehensive, you
12 would give due consideration to the fact that as
13 the trier of fact, Ms. Allen sat there all day
14 and listened to all of the testimony, weighed all
15 of the evidence carefully, and made a
16 determination.

17 In the 20 minutes we've been allowed, we
18 can't possibly present to you all of the evidence
19 that was presented to Judge Allen. There's a
20 rule -- and I know you're not an appellate court,
21 but there's a rule in the appellate courts that
22 if there's any evidence to support the finding of
23 the trial judge, the appellate court is not going

1 to substitute its judgment for the judgment of
2 the trial court, for that very reason.

3 The trial court hears the evidence, looks
4 the witness in the eye, listens to the tone of
5 voice, asks the questions, and you have a cold
6 record in front of you. Substituting your
7 judgment for what the trial judge determined
8 would not be appropriate.

9 I would ask on behalf of my client that
10 you affirm the decision made by Judge Allen, that
11 you adopt her findings of facts and conclusions
12 of law, and enter judgment in favor of American
13 Heating & Cooling.

14 Thank you.

15 CHAIRMAN RAMOS: Thank you.

16 COMM. CARTER: Rebuttal.

17 CHAIRMAN RAMOS: We'll provide
18 rebuttal, give you an opportunity to --

19 MS. HAYNES: Let me say one thing
20 quickly. Just to clarify, what your role here
21 today would be -- is to determine whether there
22 was sufficient evidence for the Administrative
23 Law Judge to make her decision. Your role today

1 would not be to reweigh the evidence or to --

2 CHAIRMAN RAMOS: I understand.

3 MS. HAYNES: -- rehear that. It's
4 just to see whether there is sufficient evidence
5 for that determination.

6 CHAIRMAN RAMOS: Okay. Thank you.

7 So, Ms. Lumpkin, we'll provide you five
8 minutes of opportunity to rebut any of the
9 comments made by Mr. Murphy.

10 MS. LUMPKIN: Yes. I would like to
11 start off saying that he said like a lot of the
12 things I am mentioning now was never brought up
13 to Ms. Noell in the hearing, and I have the
14 transaction [sic] here, and there is -- and also
15 with them saying I never said "no," I have -- or
16 they have the first recording, second recording,
17 a female says -- a female can be hearing say,
18 "Hush your mouth."

19 A male voice is saying, "Is that yes or
20 no?" A female voice says "No." It says -- at
21 540, a male can be heard, "You want to suck my
22 dick, come jack me off," and right here, it says
23 a female voice saying, "No." I played the tape,

1 the whole recording, for Ms. Noell. They could
2 hear where I said, "No."

3 Also, as far as the trial, no, I was never
4 asked to help him on the date of the trial. The
5 trial I have in here, it says that it was
6 May 30th, and that's the only date that he could
7 remember because of the trial. I did not go in
8 to the job then. I was on unemployment.

9 I was in there on the 24th, and I was in
10 there on the 5th. The 24th is when he like
11 sexually harassed me, and I walked out. I never
12 come back until June 5th, when he wanted to talk
13 to me. At that point in time, I really had no
14 desire to even talk to him again. I did go ahead
15 and go in there to talk to him and lay down the
16 rules if I did come back, "This is how it's going
17 to be."

18 There was no mention of a trial. They
19 never proved there was even a trial. They never
20 proved that I said no to a trial. If there's no
21 proof, no evidence entered, how can they say that
22 I said no when there's no evidence of even a
23 trial? For all we know, they're making up the

1 trial on this day. We have no evidence.

2 We had tons of evidence on where he
3 sexually harassed me. You have an audio tape of
4 him asking me to do this to him. You know, I
5 understand it's a he-said-she-said case, but I
6 have an audiotape that you can hear him asking me
7 to do things to him, and you can hear me telling
8 him no.

9 And this tape was during the employment
10 when I was working there. This did not happen
11 when I was laid off. This happened while I was
12 employed. So, I am asking you guys to reserve
13 this decision. I understand that Ms. Noell spent
14 a lot of time going through this.

15 But I also understand there was a lot laid
16 in her lap, and there's a lot of details that was
17 there, and with me not having an attorney,
18 there's a lot of things I didn't object to, or,
19 you know, when I would start asking questions or
20 doing this or doing that, he would object to
21 pretty much a lot of things.

22 So, I know I'd like to go ahead and go on
23 with this story, but I didn't know when to say

1 "objection" or anything like that. The truth of
2 the matter is, Murrell Loveless sexually harassed
3 me so bad from September to April, of exposing
4 himself, touching me, asking me to do favors for
5 him, and just all kinds of things that he asked
6 of me that was way above.

7 And this gentleman is 70 years old. I
8 am 36. Do you really think somebody would have a
9 relationship with somebody that old? I really --
10 he's older than my grandfather. You know, he was
11 my boss, and that's what I tried to explain to
12 him several, several times, that he is my boss,
13 and that's all I wanted is to come in here, do my
14 job, and go home, except for he would make
15 comments, he would expose himself.

16 He would put the stress onto me, and, you
17 know, what was I supposed to do? I didn't have
18 anybody else to go to, because he was the owner.
19 I called Sheriff Butch Baker, and that is in the
20 testimony, and asked him what to do, and he told
21 me to go out and buy a tape recorder, which I
22 did. And I also recorded the conversations, and
23 you can hear him asking for sexual favors, you

1 can hear me telling him, "No."

2 Again, back to the trial, no proof, no
3 proof of time cards, no proof of evidence that
4 there was even a trial. I mean I don't see how a
5 decision can be made when there's no evidence to
6 back up what they were saying, when I had a lot
7 of evidence stating that I went in there on
8 June 5th and told him I was not going to battle
9 this any longer, and he said, "You're permanently
10 laid off," pushed me out the door, and asked
11 Brian if he wanted a piece of him.

12 And then two days later, I had called the
13 cops to go in and get my stuff, because if it was
14 a peaceful, you know, "You're not employed here
15 no more," I wouldn't have had to call the cops,
16 which I showed evidence. I had a piece of paper
17 that showed where the cops were called, and he
18 was told that he was acting a riot -- acting out,
19 and they had to calm him down or they were going
20 to take him to jail. I went --

21 CHAIRMAN RAMOS: Thirty seconds.

22 MS. LUMPKIN: I went and got a
23 protective order against him, it was that bad.

1 CHAIRMAN RAMOS: Okay.

2 MS. LUMPKIN: And that's in the trial
3 case. Everything I'm -- everything I'm saying,
4 you know, even in this case that says that he did
5 touch my breasts -- she said on her own, her
6 saying that he didn't touch me. In here, it does
7 say that he did. He admitted to touching my
8 breasts and my butt. And also it's stated that
9 he was very open about the relationship. There
10 was no relationship. I was very open.

11 CHAIRMAN RAMOS: Okay.

12 MS. LUMPKIN: I had to go through and
13 relive all of this over again.

14 CHAIRMAN RAMOS: Thank you.

15 Mr. Murphy?

16 MR. MURPHY: Very briefly, with all
17 due respect, again, Ms. Lumpkin's focusing on
18 things that are not relevant. The Administrative
19 Law Judge made a specific finding that after
20 April 3rd, 2012, Ms. Lumpkin was not an employee
21 of American Heating & Cooling. She was a private
22 person.

23 Whatever happened after that date, to and

1 including this June date she's talking about,
2 would be conduct between two private people, not
3 employment related, nothing that the Commission
4 has jurisdiction over, and the Administrative Law
5 Judge so found.

6 Now, I appreciate that Ms. Loveless [sic]
7 doesn't understand the requirements of law, but
8 you do, and in the particular --

9 MS. LUMPKIN: I'm not Ms. Loveless.

10 MR. MURPHY: -- finding that Judge
11 Noell made, she set forth the burden of proof
12 that Ms. Lumpkin had to meet and referred to the
13 cases and the statute and pointed out
14 specifically where Ms. Lumpkin failed to present
15 evidence in support of a key element that she was
16 required to support.

17 The evidence was tried before a person who
18 spent a whole day listening to it. She made very
19 specific findings. We are here today listening
20 to argument that asks you to undo the work that
21 Judge Noell's already done, to substitute your
22 judgment for hers when you've heard 25 minutes'
23 worth of discussion.

1 I would suggest, with all due respect,
2 that that would be inappropriate, and what you
3 should do is affirm and adopt the decision made
4 by Judge Noell.

5 Thank you.

6 CHAIRMAN RAMOS: Thank you.

7 MS. HAYNES: Now, again, as you
8 deliberate, please keep in mind what you're
9 deliberating about.

10 CHAIRMAN RAMOS: Uh-huh.

11 MS. HAYNES: And you're deliberating
12 about whether there was insufficient evidence in
13 the record for the Administrative Law Judge to
14 make the decision, not deliberating whether the
15 decision was correct or not, but simply whether
16 there was enough evidence to make that decision.
17 If you find that there was enough evidence to
18 make that decision, then the objection would not
19 prevail.

20 If you find that there was insufficient
21 evidence to make the objections -- or
22 insufficient evidence to make that decision, the
23 objections would prevail. So, you're going to

1 need to make that decision based on that. Does
2 that make sense?

3 CHAIRMAN RAMOS: Uh-huh. And there
4 is -- I know that we have a couple of options in
5 this one. Obviously we can discuss it amongst
6 ourselves or debate, and we can uphold, we can
7 remand, we can reverse. Is that accurate as far
8 as the key elements that we can look at on this?

9 MS. HAYNES: You -- hmm. I'm not
10 sure how a remand would work in this instance,
11 because a determination was already found, so at
12 this point you would largely deliberate whether
13 there was sufficient evidence to make the
14 decision or there wasn't.

15 CHAIRMAN RAMOS: Uh-huh. Okay.

16 COMM. CARTER: I have a couple of
17 questions about things that were, to me, murky in
18 the record, and I appreciate your saying that the
19 record is clear on things, but it wasn't that
20 clear to me. There are two things. The second
21 one is -- it was the murkiest -- this help with
22 the taxes that came up a lot in the trial. Was
23 that also during this period after April 3rd?

1 MS. LUMPKIN: Yes. He called me in
2 several times.

3 COMM. CARTER: And did he offer to
4 pay you for your time for doing that?

5 MS. LUMPKIN: He would -- he didn't
6 consider it a payment, but he would give me a
7 little bit of money here and there to pay for me
8 coming in to help him.

9 COMM. CARTER: I'm trying to
10 establish an employee relationship.

11 MR. MURPHY: I understand.

12 COMM. CARTER: And I guess the same
13 question applies to this help with the trial, if
14 indeed there was a trial.

15 MR. MURPHY: There was.

16 COMM. CARTER: Yeah. Well, I'm sure
17 you would say that there was.

18 MR. MURPHY: No, Your Honor, there
19 very clearly was, and it's in the record.

20 COMM. CARTER: Okay.

21 MR. MURPHY: We identified the man
22 that owed us the money and why it was so
23 incredibly important to prevail --

1 COMM. CARTER: Yeah, I understand. I
2 remember we --

3 MR. MURPHY: -- to keep the business
4 afloat.

5 COMM. CARTER: Are you aware of the
6 fact that we all got a copy of the record --

7 MR. MURPHY: I presumed you did.

8 COMM. CARTER: -- the transcript?

9 MR. MURPHY: I presumed that was --

10 COMM. CARTER: And I'm not trying to
11 add new information. I'm trying to get my mind
12 clear about the fact that she was or was not an
13 employee by any stretch of the imagination in
14 these two cases, and what my understanding is, it
15 occurred after April 3rd. So, essentially there
16 was no salary for these two things --

17 MR. MURPHY: No.

18 COMM. CARTER: -- as far as --

19 MR. MURPHY: Nothing was -- nothing
20 was paid to Ms. Lumpkin for anything, because she
21 didn't do anything. What you saw in the record
22 that was a refusal to help was not compensated in
23 any way.

1 COMM. CARTER: All right. But she
2 did go in and help with the taxes.

3 MR. MURPHY: I think there's
4 evidence -- I can't remember exactly where in the
5 record it is. The tax issue was -- I believe it
6 was an audit. I believe the IRS was asking for
7 records, and that -- I'm not clear when that
8 happened, but I don't think it was ever brought
9 up in the trial as a reason for her not being
10 called back to work. As I recall, the reasons he
11 didn't call her back was because she just refused
12 to help prepare with this critically important
13 piece of litigation that --

14 COMM. CARTER: Okay.

15 MR. MURPHY: -- was about to happen.

16 COMM. CARTER: As I recall, the help
17 with the taxes was because she knew how to work
18 QuickBooks, and --

19 MR. MURPHY: I think that's right.

20 COMM. CARTER: -- whoever else he had
21 to help didn't.

22 That's all I have.

23 COMM. GARCIA: I have a question.

1 CHAIRMAN RAMOS: Comm. Carter is
2 finished.

3 Comm. Garcia?

4 COMM. GARCIA: My comment is,
5 twice -- Ms. Lumpkin, twice Attorney Murphy
6 referred to as Loveless.

7 MR. MURPHY: I beg your pardon.

8 MS. HAYNES: And that's, I think --

9 MR. MURPHY: I'm sorry.

10 COMM. GARCIA: I just want to make it
11 clear that I think, on behalf of the entire
12 Commission -- and they can tell me I'm wrong --
13 we understood that you referred to her --

14 MR. MURPHY: I misspoke.

15 COMM. GARCIA: -- and not Loveless.

16 MS. HAYNES: And Commissioners, I
17 would like to remind you that you may deliberate
18 amongst yourselves on this decision as well.

19 CHAIRMAN RAMOS: Okay.

20 COMM. GARCIA: And the other thing
21 is: Why didn't you get an attorney? I mean she
22 asked --

23 MS. LUMPKIN: I hired one at the

1 beginning. He left the job about a year and a
2 half into it. They gave me another gentleman
3 that came in. He said he's never tried a case
4 like this. He was unwary [sic]. He actually
5 wanted off the case.

6 So, I didn't know -- I couldn't say, "No,
7 I don't want you off the case," so I was like,
8 "Well, you can do what you've got to do," over
9 the phone, and he sent me a paper to sign to
10 release him. I never signed the paper, and then
11 I got in the mail that he was released from it
12 because, I guess, from me the saying, "You need
13 to do what you've got to do."

14 Well, then that left me with no attorney,
15 and the trial was coming up fairly quick. I had
16 no option but to go in and do this on my own.

17 COMM. CARTER: Were you aware of the
18 fact that the Commission provides -- we have two
19 attorneys who --

20 MS. LUMPKIN: Yes. I spoke to Mike
21 Healy, and he goes, "I wish you would have called
22 me." He said, "I would have picked it up." But
23 that was after the fact.

1 COMM. CARTER: That was too late.

2 MS. LUMPKIN: Yes. Because I wanted
3 him to help me with the appeal, and he said he
4 couldn't because he didn't -- he wasn't the
5 attorney.

6 CHAIRMAN RAMOS: Any questions -- any
7 other questions from the Commission?

8 COMM. GIDNEY: I guess I have some
9 concerns. When you speak to the issue with
10 regard to the dismissal, you indicated that
11 people were downsized because of the funds and
12 the finances, but a couple of times you said he
13 was right not to call someone who refused to
14 help. So, was it an issue of her being dismissed
15 because of revenue, or was it really a dismissal
16 because she wasn't available to help with the
17 trial? So, I'm a little unclear in that regard.

18 MR. MURPHY: There were two layoffs.

19 COMM. GIDNEY: Uh-huh.

20 MR. MURPHY: The most recent one was
21 in April of 2012. In both situations, all
22 employees were laid off, and both situations were
23 directly related to cash flow. After the

1 April 23rd layoff and the litigation began
2 against this accounts-receivable payer,
3 Mr. Loveless needed help to put that case
4 together. He had a lawyer, but he needed
5 administrative help to present the evidence to
6 the lawyer for trial, and that's when he asked
7 Ms. Lumpkin to come in, and she refused.

8 Now, as it turned out -- and I can't
9 remember if this is the record or not, but my
10 recollection is he won the lawsuit. Now,
11 frankly, he didn't collect it. That's not in the
12 record. I did that much later. But at some
13 point he did re-call some of the workers, not to
14 include Ms. Lumpkin.

15 And as the Administrative Law Judge found,
16 the reason he didn't re-call her was because in a
17 time of need, when he really needed her help,
18 even though she wasn't an employee, she just
19 refused. And he felt, correctly, I believe, "I
20 don't want somebody like that working for me."
21 It had nothing to do with sex at all.

22 COMM. GIDNEY: Okay.

23 CHAIRMAN RAMOS: Other questions?

1 (No response.)

2 CHAIRMAN RAMOS: All right. So,
3 we're doing public debate, as I understand.

4 MS. LUMPKIN: Can I make a comment?

5 CHAIRMAN RAMOS: Well, actually you
6 had your opportunity. So, if we have a question
7 for you, as to protocol, either of you --

8 Do we allow them to be in conversation on
9 this, or is that part of the section closed?

10 MS. HAYNES: If you've already closed
11 the argument portion, now you can deliberate.

12 CHAIRMAN RAMOS: Yes. So, if we have
13 questions -- it's kind of this evidence now.

14 MS. LUMPKIN: Okay.

15 CHAIRMAN RAMOS: I mean the overall
16 aspect of it, if we look at the key elements, my
17 opinion, I didn't see any new evidence that was
18 brought forward that -- that would have an impact
19 on this.

20 Comm. Carter.

21 COMM. CARTER: I agree.

22 CHAIRMAN RAMOS: Comm. Garcia?

23 COMM. GARCIA: I uphold the Judge's

1 decision.

2 CHAIRMAN RAMOS: Comm. Baynard?

3 COMM. BAYNARD: Yes.

4 CHAIRMAN RAMOS: Comm. Gidney?

5 COMM. GIDNEY: Yes.

6 CHAIRMAN RAMOS: Based on those
7 facts, I see no reason to reverse or put this
8 back. I mean, you know, there's no evidence that
9 supports that within that time line. You know,
10 the guidelines that are stipulated that you have
11 to prove, that -- there's no evidence that
12 otherwise supports that, based on what our
13 observations were in the hearings.

14 That's not a question on what happened.
15 That's not our role. The question is: Was there
16 evidence that would be allowed to put it back to
17 the ALJ to relook at this trial?

18 MS. LUMPKIN: But they showed no
19 evidence of even a trial. I showed a ton of --
20 tons of evidence of sexual harassment. There
21 was -- he introduced no evidence of a trial. I
22 mean how can you believe that there was a trial
23 coming up when there was no evidence of the

1 trial?

2 CHAIRMAN RAMOS: And the guidelines
3 under the filing process is, as an employee, you
4 filed that process. Based on the information
5 that we have, at that time -- and there's no
6 evidence that supports otherwise -- you were not
7 an employee.

8 MS. LUMPKIN: I was -- when I played
9 the record, it even states in November, the
10 record I had recorded, I was employed when he
11 said what he said.

12 CHAIRMAN RAMOS: But that evidence
13 was available to the ALJ at the time; right?

14 MS. LUMPKIN: Yes. I played the
15 whole tape.

16 CHAIRMAN RAMOS: So, that's not new
17 information. It is information that -- I mean it
18 was -- you know, it was a part of the information
19 that they -- the Administrative Law Judge had
20 reviewed, so it had already been in
21 consideration. So, it's not new information.

22 MS. LUMPKIN: Right.

23 CHAIRMAN RAMOS: So, if there was

1 some new evidence that was provided --

2 MS. LUMPKIN: Well, that's what --
3 that was the comment I was wanting to make. He
4 kept saying that his accounts receivable for this
5 Dallas Patton, it had nothing to do with American
6 Heating & Cooling. He had a car painted for
7 himself. It wasn't American Heating & Cooling.

8 He did a bad job painting his car, and he
9 was going after him because of his car not being
10 painted right. It had nothing to do with
11 American Heating & Cooling. They never even
12 proved there was a trial. It had nothing to do
13 with American Heating & Cooling accounts payable
14 and receivables.

15 CHAIRMAN RAMOS: Ma'am --

16 MS. LUMPKIN: It was all about his
17 car getting painted wrong.

18 CHAIRMAN RAMOS: Well --

19 MS. LUMPKIN: And I had to go out
20 there and take pictures of his car where you
21 could see the paint mistakes.

22 CHAIRMAN RAMOS: Yeah. We are --
23 our -- we have fine guidelines that we have to

1 follow, and the stipulation in the case, again,
2 is that, again, you would have had to have been
3 an employee at the time, and because that wasn't
4 the case, and no new evidence demonstrates that
5 that is the case, you know, our position would be
6 to uphold the --

7 MS. LUMPKIN: I thought I wasn't
8 allowed to bring -- I thought we were supposed to
9 go off of this here as far as what was said, and
10 correct --

11 CHAIRMAN RAMOS: It is --

12 MS. LUMPKIN: Because I object -- you
13 can read where I objected to her findings, where
14 she said that, you know, he didn't touch me, and
15 he admits -- right here he admits to touching me.
16 There was so much sexual harassment. You know, I
17 want him to be punished for -- or pay for this,
18 because I don't want him to do this to nobody
19 else.

20 You don't understand how much suffering
21 and stuff I went through. I've gone to a
22 therapist. I have panic anxiety attacks. I wake
23 up with nightmares because of everything he's

1 done to me. And this happened while we were
2 employed.

3 And he called me in to work after he laid
4 me off on several occasions, and yes, he gave me
5 money to come back and forth to help him. Who do
6 you think done the taxes? Who do you think done
7 everything that was going on when that business
8 was closed down and he was doing the work? It
9 was me.

10 CHAIRMAN RAMOS: And the law states
11 that we have to demonstrate beyond any
12 preponderance of a question that -- that your
13 sexual harassment was during employment and
14 within that time line, so the way the dates and
15 stuff are demonstrated here --

16 MS. LUMPKIN: It was during
17 employment. I have the tape recorder. I can
18 show you the date on it that I was employed. I
19 even showed it to Ms. Noell.

20 CHAIRMAN RAMOS: All right. This
21 is --

22 MS. LUMPKIN: And it was in --

23 CHAIRMAN RAMOS: This is where

1 your -- this is where an attorney would provide
2 you the guideline and the process, because you
3 have to follow, you know, the stipulations. The
4 information you received from the Commission,
5 Mr. Healy could have assisted as well.

6 Here's the -- here's what you have to
7 prove. This has to be done within that time
8 line, within that -- those specifications as you
9 filed your appeal. It would have to be within
10 that time line, so what happened a year or two
11 years ago, if you were an employee -- at that
12 time were an employee, and you -- then that -- it
13 would be admissible [sic]. And no one's
14 questioning what --

15 MS. LUMPKIN: Well --

16 CHAIRMAN RAMOS: -- has happened.
17 That's not a question. It is within the time
18 line that we have for filing this case. It is
19 all within the time lines of what we have to
20 prove. And you had to, again, bring new evidence
21 within those time lines, within those guidelines,
22 for us to be able to provide --

23 MS. LUMPKIN: Well, Ms. Noell -- he

1 made a comment at the hearing about whether it
2 was sticking with after I was an employee, and
3 she says -- it's in the document -- that "No, she
4 wants to go back all of the way to the time it
5 started." So, I proved from the time that it
6 started in September all of the way through. I
7 mean -- so, what he done to me prior, it don't
8 matter?

9 MS. HAYNES: I would like --

10 MS. LUMPKIN: I was sexually harassed
11 on the job, and I'm supposed to be backed up.

12 MS. HAYNES: I would like to remind
13 the Commission that, as the time for
14 deliberations has passed, you now have the
15 authority to render your decision.

16 CHAIRMAN RAMOS: Thank you. Yes.

17 Again, I think, based on our conversation,
18 we've not seen any new evidence that has been
19 entered into the discussion, so I'd like a motion
20 to uphold the findings that were previously
21 stated, or -- do we uphold, or do we agree that
22 those no formal -- no new information that would
23 require us to remand it back?

1 MS. HAYNES: You could uphold the
2 Administrative Law Judge's decision.

3 CHAIRMAN RAMOS: Okay.

4 COMM. CARTER: I move we uphold the
5 Administrative Law Judge's findings.

6 COMM. GARCIA: Second.

7 CHAIRMAN RAMOS: The motion's been
8 made and seconded to uphold the Administrative
9 Law Judge's findings. All those in favor,
10 signify by saying aye.

11 COMM. BAYNARD: Aye.

12 COMM. CARTER: Aye.

13 COMM. GARCIA: Aye.

14 COMM. GIDNEY: Aye.

15 CHAIRMAN RAMOS: Aye.

16 Opposed? Any opposition?

17 (No response.)

18 CHAIRMAN RAMOS: Motion carries.

19 MS. LUMPKIN: Thank you.

20 MR. MURPHY: Thank you.

21 CHAIRMAN RAMOS: Thank you.

22 Next on the agenda -- I don't think we
23 need to take a break here -- Executive Director's

1 Report.

2 MR. SMITH: Good afternoon, barely.

3 A very short report. Today moving forward
4 in terms of reporting, and which we don't have
5 the opportunity to touch on too much. The agency
6 reports are in your packets, or should be in your
7 packets, that speaks to the ebb and flow of
8 activity for the agency.

9 Caseloads continue to pick up. We are --
10 our two main partnerships, federal partnerships,
11 with HUD and EEOC, I did make mention of this
12 last Commission meeting, but I want to make note
13 that we have successfully fulfilled or
14 accomplished our HUD contract, as of June 30;
15 isn't that right?

16 MS. COOK: Yes.

17 MR. SMITH: June 30, and although the
18 EEOC contract was not approved until
19 September 30, we have already fulfilled our
20 obligations for that contract, and have asked
21 for -- or called in for a modification, which
22 would result in additional funds for the agency.
23 All of those cases are already in-house and

1 pretty much ready to go, so we're ahead of that
2 game.

3 And I just want to publicly give a
4 standing ovation and a round of applause and
5 kudos to the unit of both intake as well the both
6 investigative units for the work that they do in
7 fulfilling all of our obligations, both
8 noncontractual as well as the federal contract
9 partnership agreements that we have.

10 So, any questions in that regard?

11 CHAIRMAN RAMOS: (Shook head no.)

12 MR. SMITH: Hearing none, the
13 outreach and external arms are also very, very
14 active. We participated in a fairly large
15 back-to-school event here yesterday evening.
16 They had in the neighborhood of three to four
17 thousand young people who attended, which was an
18 opportunity for good outreach and exposure for
19 the agency --

20 CHAIRMAN RAMOS: What is the --

21 MR. SMITH: -- especially in regards
22 to our push for equal access to a quality
23 education; right? So, anytime we have an

1 opportunity to be in front of young people and
2 the parents of those young folks, we want to take
3 advantage of that, and it's very rarely that we
4 have an opportunity to do so in front of a fairly
5 large, large crowd.

6 Comm. Ramos, you had a question?

7 CHAIRMAN RAMOS: No, you answered it.

8 MR. SMITH: And that was the event
9 held at the Julian Coleman Academy Middle School
10 yesterday, the 16th Annual Family Fun Filled
11 Back-to-School Carnival. It's been going on for
12 a while. The last couple of years, we've been
13 able to take part in it, so we're excited about
14 that.

15 Then today, as you well know, we're
16 excited about our partnership with the
17 Indianapolis Indians, in representation of the
18 old Negro Leagues, and we have the Civil Rights
19 Game, in commemoration of the Indiana Civil
20 Rights Commission, and so we're excited about
21 that. Tipoff tonight is at 7:00 p.m. We
22 encourage everyone to come out in support of the
23 game.

1 Also, two things to note. You know, it's
2 the third year that we've done it. We try to
3 build on it every year. This year, we've added
4 the essay contest, for which we have three
5 winners, all young ladies. The mission was, we
6 charged all of the kids to write an essay on why
7 they felt education was the civil rights issue of
8 our time, and we had some very, very, very
9 interesting, if you will, submissions, and I
10 thought the committee for that chose three very
11 good essays.

12 The winner, the first-place winner, in
13 light of our partnership with the Indianapolis
14 Recorder as well as the La Voz Indiana, will have
15 their essay published in those publications, in
16 both newspapers, so we're excited about that, and
17 very, very proud of those partnerships, because,
18 one, it extends to our target demographic, the
19 Hispanic community, with La Voz, as well as the
20 African-American community, with the Indianapolis
21 Recorder.

22 And the winner will also get an
23 opportunity to come on the field and throw out

1 the first pitch today, so we're excited that she
2 will get an opportunity to do that.

3 The other piece that we added this year
4 was the partnership with Martin University. We
5 thought it was a very good partnership, and we're
6 going to do a -- at Martin University -- and it's
7 going on as we speak, actually. I left there to
8 make it here in time for the Commission meeting,
9 but at Martin University's Gathertorium, they're
10 going to do sort of an educational piece on the
11 Negro League and all of the Negro League teams
12 and how they influenced or impact -- or were here
13 in Indianapolis.

14 And so, from the Kansas City Royal all of
15 way to the Indianapolis ABC's, which became the
16 Indianapolis Clowns, they're going to do an
17 historical event there. When I left, there were
18 somewhere in the neighborhood of four hundred,
19 four hundred fifty young people, the majority of
20 which came from one of the local high schools
21 here -- middle and high schools here. So, we're
22 very excited to have -- to have that.

23 And those are all just examples of how we

1 are kind of expanding our reach of the agency and
2 making sure that we touch base not just with
3 administrators, principals, the legislature,
4 things of that nature, but the young people and
5 the people who deal with our young folks on a
6 daily basis. So, we're excited about that
7 opportunity to extend our footprint, if you will,
8 in the state.

9 And so, as this continues to grow, this
10 being the Indiana Civil Rights Game or this
11 weekend -- I just sort of come up with it -- the
12 idea is to use it as a pilot to hopefully do some
13 things very similar in other parts of the state,
14 because, you know, we're excited about the
15 opportunity to grow there.

16 So, any questions in that regard at all?

17 CHAIRMAN RAMOS: Hopefully it's not
18 going to rain.

19 MR. SMITH: Yeah. Well, you know,
20 there were a few representatives from the Indians
21 at Martin University, and I made the same
22 comment, and they, in unison, said, "What rain?
23 We have no idea what you're talking about."

1 (Laughter.)

2 MR. SMITH: So, you know, I'm going
3 to go with their talking points and say, "What
4 rain? We're looking forward to the game
5 tonight."

6 CHAIRMAN RAMOS: Is it a sellout?

7 MR. SMITH: It is a sellout. In
8 fact, the three years that we've had it, they
9 cite that it has been one of the easiest games of
10 the year to sell tickets and gather interest.
11 So, we're excited about that. We think, again,
12 one of the M.O.'s when I came over to the agency
13 was to kind of rebrand the agency in terms of the
14 demographic that we hit, and the partnership with
15 the Indians, you know, does that tremendously.

16 I would say that a large part of the
17 audience that make up the Indians' crowd is not
18 the normal demographic that we typically hit, and
19 so it's an opportunity for us to talk about what
20 we do as an agency, the resources that the
21 citizens of Indiana have access to by way of the
22 Indiana Civil Rights Commission, to a group that
23 we don't normally speak to, and give them a

1 message that they don't normally hear.

2 So, you know, with that said, we're
3 excited that we've taken that opportunity to
4 really push both our embracement, if you will, of
5 our push for quality education, and that's our
6 focus, which is why we incorporated the essay
7 contest, and we'll have the young winner on the
8 field to speak to the audience and to the crowd
9 prior to the game as well.

10 CHAIRMAN RAMOS: You said there were
11 three; right, the top three?

12 MR. SMITH: Yeah. We had over 300
13 submittals, I believe, and --

14 CHAIRMAN RAMOS: Wow.

15 MR. SMITH: -- we pulled our partners
16 in to form the committee, La Voz, the Recorder,
17 the Black Expo, and the committee chose the top
18 three. They narrowed it down to the top three
19 winners. The winners just so happen to be all
20 young ladies.

21 One is actually a Native American from
22 Bedford, from the Bedford area, in Southern
23 Indiana, who is traveling up with her teachers to

1 come to the game, and parents. So, we're excited
2 about that as well. She kind of speaks to,
3 again, the reach that an event like this and an
4 opportunity like this lends itself to. So, we're
5 excited.

6 CHAIRMAN RAMOS: As a -- as a -- I --
7 it would be nice to be able to read that before I
8 get there tonight, if that's okay.

9 MR. SMITH: The -- oh, the artic --
10 or the essays?

11 CHAIRMAN RAMOS: The essays, yes,
12 because that way I can brag on her while I'm
13 there.

14 MR. SMITH: Yeah, no doubt. We
15 have -- they're in the latest edition of the
16 Recorder, if I'm not mistaken.

17 CHAIRMAN RAMOS: Okay.

18 MR. SMITH: So, we'll see if we can't
19 get everyone a copy of the Recorder. I know I
20 have one in the office, so worst case, definitely
21 stop by and I'll make sure you get a copy of it.

22 We're excited about that opportunity,
23 because it also gives young people an

1 opportunity -- you know, how often do we say,
2 "Here, we want you to do this," but we never, you
3 know, push them along? So, you know, her essay
4 is a bright light; right? It's in the
5 publication that's going out all over the city,
6 so --

7 CHAIRMAN RAMOS: Just as a thought,
8 because I do a lot of education, as you know, and
9 submit the winning one back to the schools, just
10 so they have a model for next year, because I
11 know --

12 MR. SMITH: Uh-huh.

13 CHAIRMAN RAMOS: -- you're going to
14 want to continue this.

15 MR. SMITH: Uh-huh.

16 CHAIRMAN RAMOS: And just -- you
17 know, so the teacher is sitting there, typically
18 an English teacher, or it could be the school
19 counselor that's --

20 MR. SMITH: Yeah.

21 CHAIRMAN RAMOS: -- setting this up,
22 saying, "Now, here's --" I always want to know,
23 if I'm competing, what I'm up against.

1 MR. SMITH: Yeah.

2 CHAIRMAN RAMOS: So, it provides a
3 model. It's like, "Here's the bar you have to be
4 at."

5 MR. SMITH: Yeah.

6 CHAIRMAN RAMOS: So, it lists -- and
7 if you had 300, I'm sure there were, you know,
8 maybe a hundred that weren't even close, but nice
9 thoughts and good thoughts, but at least it helps
10 the thinking along.

11 MR. SMITH: Yeah. No, we did -- and
12 she's from Allisonville Elementary, which is here
13 in Indianapolis, and we're sending copies to the
14 principal or teacher in her class, as well as --
15 I mean again, the Recorder's going out all over
16 the city, so --

17 CHAIRMAN RAMOS: Well, you know, I
18 meant all of the other schools --

19 MR. SMITH: All of the schools.

20 CHAIRMAN RAMOS: -- around the state
21 that submitted --

22 MR. SMITH: Oh.

23 CHAIRMAN RAMOS: -- "Thank you very

1 much for participating, and here's the winning
2 essay."

3 MR. SMITH: That's a good suggestion.
4 I'll do that.

5 COMM. GIDNEY: They need to see just
6 how -- well, it's a competition. If they want to
7 be next year's winner, make them work for it.
8 Don't make it that easy for them.

9 MR. SMITH: Yeah. Well --

10 CHAIRMAN RAMOS: Well, it gives them
11 some feedback, too.

12 MR. SMITH: Right. I think that's a
13 good suggestion in terms of the feedback. I do
14 want to continue the communication, right. When
15 we first started, we didn't have as many
16 connections, so we tapped into DOE and we sent it
17 out to every school district in the state.

18 And unfortunately, oftentimes it involves
19 some of their peers. We don't hear back from
20 many of the school districts, so for those who do
21 participate, you do make a good point that it
22 would probably be a good idea to reciprocate that
23 communication and make sure that we keep tabs.

1 I also agree with Comm. Gidney, that the
2 athlete meets a specific game mode; right --

3 COMM. GIDNEY: Yeah.

4 MR. SMITH: -- if you want to be a
5 part of the reindeer game. So, you know, maybe
6 we can put a nice little tag in there when we
7 send it out to encourage everybody to put their
8 best foot forward next year.

9 CHAIRMAN RAMOS: Yes.

10 MR. SMITH: Any other questions in
11 regards to that at all?

12 (No response.)

13 MR. SMITH: Outside of that, things
14 are moving along well. We are implementing our
15 Strategic Plan and pushing forward as fast as we
16 can. So, we will be in a neighborhood near you
17 soon, so make sure that you take a look at the
18 report, and it lists all of the events, and if
19 we're in your neighborhood and you have the time,
20 I do encourage you to step out and be a part,
21 because you guys are representatives, good
22 representatives, of the Commission, and folks
23 should know that and should know who you are.

1 CHAIRMAN RAMOS: Good. Thank you.

2 MR. SMITH: Yes, sir.

3 CHAIRMAN RAMOS: Any questions for --

4 COMM. GIDNEY: No.

5 COMM. GARCIA: No.

6 CHAIRMAN RAMOS: All right.

7 MR. SMITH: Thank you.

8 CHAIRMAN RAMOS: All right. Do we

9 have any announcements?

10 (No response.)

11 CHAIRMAN RAMOS: Then the next
12 meeting dates are posted. September 26th is our
13 next meeting here. If -- are there any other
14 questions or comments?

15 (No response.)

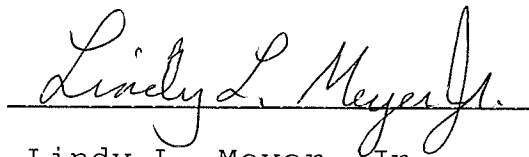
16 CHAIRMAN RAMOS: If not, I adjourn
17 the meeting.

18 - - -
19 Thereupon, the proceedings of
20 August 22, 2014 were concluded
21 at 12:13 o'clock p.m.
22 - - -
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CERTIFICATE

I, Lindy L. Meyer, Jr., the undersigned Court Reporter and Notary Public residing in the City of Shelbyville, Shelby County, Indiana, do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me on Friday, August 22, 2014 in this matter and transcribed by me.



Lindy L. Meyer, Jr.,

Notary Public in and
for the State of Indiana.

My Commission expires October 27, 2016.

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