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BEFORE THE STATE OF INDIANA

CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF APRIL 15, 2024

- - -

PROCEEDINGS

in the above-captioned matter, before the Indiana
Civil Rights Commission, Adrienne L. Slash,
Chairperson, 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 North, 100 North Senate Avenue,
Room N300, Indianapolis, Indiana, on Monday,
April 15, 2024 at 1:14 o'clock p.m.

- - -

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1 APPEARANCES:

2 COMMISSION MEMBERS:

3 Steven A. Ramos, Vice-Chair
4 Holli Harrington
5 Sue Silberberg
6 James W. Jackson
7 Terry Tolliver

8 INDIANA CIVIL RIGHTS COMMISSION
9 By Gregory Wilson, Director
10 & David Fleischhacker, Deputy Director
11 Indiana Government Center North
12 100 North Senate Avenue, Room N300
13 Indianapolis, Indiana 46204
14 On behalf of the Commission.

15 OTHER COMMISSION STAFF PRESENT:

16 Michael Lostutter
17 Christiana Afuwape
18 Yvette Kirchoff
19 Vanessa Powell

20 ALSO PRESENT:

21 Craig Wiley
22 Andrew Barchet

23 - - -

1 1:14 o'clock p.m.
2 April 15, 2024

3 - - -

4 VICE-CHAIR RAMOS: It's 1:14 on my
5 clock, so we'll go ahead and begin our monthly
6 Civil Rights Commission meeting, and would you
7 like to announce the agenda, please?

8 MR. LOSTUTTER: The agenda will be as
9 follows: We will have approval of previous
10 meeting minutes; we will then have the ICRC
11 Director's Report; then we'll have the Old
12 Business of listening to appeals that were
13 assigned to Commissioners last month; and then we
14 will have New Business, appeals to be assigned to
15 Commissioners for next month; we then have a
16 review of ALJ Decisions and Orders; and we then
17 have reading in of the one ALJ decision that's
18 automatically confirmed; then we can talk about
19 next month's meeting set for May 20th, make sure
20 that people will be available for that; and then
21 we have the matter of election of Chair and
22 Vice-Chair.

23 And that's the agenda for today.

VICE-CHAIR RAMOS: Thank you.

1 The next item on the agenda is the
2 approval of the minutes. We need a motion to
3 approve the minutes.

4 COMM. TOLLIVER: So moved.

5 MR. FLEISCHHACKER: Yes -- or excuse
6 me. First, we need to establish a quorum.

7 VICE-CHAIR RAMOS: Oh, correct. And
8 we do have a quorum. We have five of the seven,
9 and we know Chair Slash is enjoying someplace
10 warm, I'm sure, and so, we do have a quorum.
11 Thank you.

12 Okay. Now for approval of the minutes, I
13 heard Comm. Tolliver make the motion to approve.
14 Was there a second?

15 COMM. SILBERBERG: Second.

16 VICE-CHAIR RAMOS: Second by
17 Comm. Silberberg.

18 Since there's no one on-line, we can just
19 do a voice vote. All those in favor, signify by
20 saying aye.

21 COMM. SILBERBERG: Aye.

22 COMM. HARRINGTON: Aye.

23 COMM. JACKSON: Aye.

1 COMM. TOLLIVER: Aye.

2 VICE-CHAIR RAMOS: Aye.

3 Any opposed?

4 (No response.)

5 VICE-CHAIR RAMOS: Motion carries.

6 Then we have the Indiana Civil Rights
7 Commission Director's Report.

8 MR. FLEISCHHACKER: Thank you,
9 Vice-Chair Ramos.

10 Just a few things to go over today. We do
11 have some events going on this month. April is
12 National Fair Housing Month. We're hosting a
13 Fair Housing virtual panel on April 25th in the
14 afternoon. I'm actually moderating it, and
15 Melissa Deering, our REPACE Division Director, is
16 one of our panelists, and then we have a panelist
17 from the Indiana Housing Community Development
18 Authority and somebody from the Division on
19 Mental Health and Addiction from the FSSA joining
20 us talking about housing-related matters.

21 So, we anticipate having a good audience
22 for that, and if you've not yet been invited,
23 we'll make sure that invitations get out to the

1 Commissioners as well. And that's on April 25th
2 at 2:00 o'clock.

3 And then starting next month, we'll be
4 doing -- we're getting back into our C.O.R.E.
5 activities, which is Community, Outreach and
6 Resource and Education, where we have staff from
7 our office out at local libraries or community
8 centers to be there to raise awareness, educate
9 the public, and to be there for intake purposes
10 as well, if somebody has a complaint that they
11 want to file. So, they'll be able to work with
12 that individual to get complaints filed.

13 So, we've got that. We'll get that fired
14 up here in the next couple of weeks, and we're
15 working with a group up in Northwestern Indiana
16 to do C.O.R.E. events up there as well, to serve
17 a number of the populations and the cities up in
18 the Northwest Indiana area, outside of our area.

19 MR. LOSTUTTER: And Executive
20 Director Greg Wilson is on.

21 MR. FLEISCHHACKER: Can you mute
22 everyone? All right.

23 Just a couple of legislative-related

1 things. As you've heard, House Enrolled Act 1003
2 was passed. That's the one that transfers
3 ultimate authority to the Office of
4 Administrative Law Proceedings, the ALJ's through
5 that agency.

6 That becomes effective on July 1st, so
7 cases that are initiated prior to July 1st, this
8 Commission will retain ultimate authority status
9 for those cases, but then cases that are
10 initiated after July 1st, the Administrative Law
11 Judge in OALP is then the ultimate authority for
12 those particular cases.

13 So, all of the cases currently going
14 through the administrative process and any that
15 are initiated between now and June 30th, this
16 Commission would still retain the ultimate
17 authority status for those cases.

18 And then last year there was House
19 Enrolled Act 1623. That was passed, and it had
20 to deal with some administrative law stuff, but
21 also civil penalties and fines, and as part of
22 that, there was a safe-harbor provision, where
23 agencies needed to come in if they had some type

1 of civil penalty or fee that they were able to
2 issue, which this Commission does have the civil
3 penalty that's permitted in Fair Housing cases.

4 So, on -- actually on Friday I'm going
5 before the Budget Committee to talk about that
6 civil penalty and what our plans are with it,
7 because the statutory language provides that it's
8 an "up-to" penalty, and neither our statute nor
9 our regulations provide any guidance on what that
10 "up-to" should look like.

11 So, over this next year, we're going to be
12 engaged in some rulemaking to bring in -- on the
13 federal level and their regulations in the
14 Federal Fair Housing Act, they have factors that
15 the ALJ or Commissioners are supposed to look at
16 when deciding whether a civil penalty is
17 appropriate, and to what extent.

18 So, we're going to be incorporating those
19 factors into our Administrative Code, but the
20 rulemaking process is a lengthy process, so we're
21 going to be initiating that here in the next
22 couple of months, because it can take anywhere
23 from nine months up to a year.

1 And then as far as a few metrics go, we
2 just completed Quarter 1 at the end of March.
3 Our calls compared to 2023 are up a little bit,
4 by about just a hundred calls, about 2400 versus
5 2300 last year. Our inquiries are down just a
6 little bit, 599 compared to 649.

7 Our formalized complaints, we've not had
8 nearly as many as we did at this point last year.
9 Last year we had 327 through the end of March.
10 This year we are only sitting at 208. However,
11 our closures have gone up quite a bit. Through
12 the end of March in 2023 we're at 138, versus 194
13 closures so far in the first three months
14 of 2024.

15 And then as of the end of March, we had 51
16 open cases for litigation purposes in either the
17 administrative or state court setting, and
18 through the first three months we had closed 17
19 litigation cases, either due to settlement or
20 being decided on the merits.

21 VICE-CHAIR RAMOS: I'd like to go
22 back to the change that's effective July 1st.

23 MR. FLEISCHHACKER: Sure.

1 VICE-CHAIR RAMOS: You reference that
2 beginning July 1st, the ALJ will now be more of
3 the administrative process. Do any of the
4 appeals that are done, are -- they do not -- no
5 longer come to the Civil Rights, or how is that?

6 MR. FLEISCHHACKER: Appeals of what?

7 VICE-CHAIR RAMOS: So, if the ALJ
8 makes a decision on the case and the respondent
9 or complainant chooses to appeal, is --

10 MR. FLEISCHHACKER: Are you talking
11 about like a judicial review?

12 VICE-CHAIR RAMOS: Yes.

13 MR. FLEISCHHACKER: So, cases that go
14 up on judicial review, if they come back, then
15 they'll go back to the ALJ. So -- and even --
16 so, like even on cases that are currently going
17 through now, if they go up on judicial review,
18 and then if they come back, they'll go back to
19 the ALJ as the ultimate authority.

20 VICE-CHAIR RAMOS: Okay.

21 MR. FLEISCHHACKER: So, only cases
22 that are currently before the Commission and then
23 be -- come before the Commission between now and

1 June 30th, the Commission would retain ultimate
2 authority status for those cases, but once that
3 July 1st date hits, anything that is initiated
4 after that or comes back on judicial review after
5 that, it goes to the ALJ.

6 VICE-CHAIR RAMOS: Okay.

7 MR. FLEISCHHACKER: Because I know
8 like right now, we do have a case that's pending
9 before the Indiana Sup -- or the Court of Appeals
10 on judicial review, so if that comes back after
11 July 1st -- I doubt that it would, because it
12 hasn't even been briefed yet, but coming back
13 after July 1st, that would go to the
14 Administrative Law Judge versus the Commission.

15 VICE-CHAIR RAMOS: Okay. Thank you.

16 Are there any other questions for Deputy
17 Director Fleischhacker.

18 COMM. HARRINGTON: The only question
19 I have is --

20 MR. FLEISCHHACKER: Sure.

21 COMM. HARRINGTON: -- when it comes
22 back -- I know you pool the Administrative Law
23 Judges. Will it go back to the same person --

1 MR. FLEISCHHACKER: That would be
2 for --

3 COMM. HARRINGTON: -- that
4 initially --

5 MR. FLEISCHHACKER: Potentially, yes.
6 It would be for the Office of Administrative Law
7 Proceedings to determine, because if that person
8 isn't there anymore, then obviously it couldn't
9 go back to them, but they have processes in place
10 to make sure that the appropriate ALJ's are
11 hearing appropriate cases within their
12 jurisdiction. They do a lot of ALJ services for
13 a number of different agencies --

14 COMM. HARRINGTON: Uh-huh.

15 MR. FLEISCHHACKER: -- FSSA being
16 their largest one, so they have ALJ's that are
17 kind of --

18 COMM. HARRINGTON: Well, I thought it
19 would be better --

20 MR. FLEISCHHACKER: -- topic
21 specific.

22 COMM. HARRINGTON: -- if a different
23 one saw it so you'd have another perspective, and

1 not --

2 MR. FLEISCHHACKER: That'll be up to
3 them. So -- and it'll depend on why it comes
4 back, because like the case that's up on for the
5 Court of Appeals right now was decided on summary
6 judgment, so if it comes back, then it would
7 likely go to an evidentiary hearing, but the
8 original ALJ's that -- one of them is no longer a
9 state employee, the other one's still at OALP.
10 So, it's up to them to decide which ALJ is
11 assigned that.

12 COMM. HARRINGTON: And what is the
13 driver or benefit for changing the process?

14 MR. FLEISCHHACKER: It's my
15 understanding that the idea behind it was to make
16 the administrative process easier and quicker
17 instead of adding additional review periods for a
18 case, because right now, if an ALJ is the -- not
19 an ultimate authority, then you can file
20 objections to that within 15 days of that ALJ
21 nonfinal order, then that goes to the ultimate
22 authority, then 30 days to brief after that
23 objection period, and then the -- then there's an

1 oral argument before that ultimate authority, and
2 then they have 90 days, versus initiating that
3 process more quickly and getting through it.

4 There's still -- they added in a process
5 where you can file a motion to correct errors
6 from the ALJ order as the ultimate authority, so
7 there's still a process for us to try to correct
8 things if we find something in the order that
9 should be corrected. We can still file that and
10 have that go through that process. So, that kind
11 of objection right is still within there, not as
12 robust, I think, as it is currently, but that
13 was, you know, what the General Assembly decided
14 in how they wanted administrative proceedings to
15 be.

16 COMM. HARRINGTON: Okay. And I would
17 just ask, as we're moving forward, just if there
18 could be training to clarify so everybody
19 understands, because like I say, I hear what's
20 going to be different, but I still don't
21 understand the value and the process, and it's
22 easier for whom? Is it the individuals providing
23 the complaint, or is it a process improvement

1 internally? So, I still don't quite understand
2 it, even --

3 MR. FLEISCHHACKER: Sure.

4 COMM. HARRINGTON: -- from the
5 description that you gave. So, I just want to
6 make sure --

7 MR. FLEISCHHACKER: It'll be less
8 work -- it'll be less work for the Commission,
9 for you guys.

10 COMM. HARRINGTON: But less work
11 doesn't always mean it's in the best interest,
12 and that -- I didn't hear that in this.

13 MR. FLEISCHHACKER: Sure.

14 COMM. HARRINGTON: So, I'm just
15 trying to understand.

16 VICE-CHAIR RAMOS: And that's my
17 comment as well, is we're here for a purpose and
18 reason, and we want to make sure that everybody
19 has the opportunity for fair and equal justice.

20 MR. FLEISCHHACKER: Sure.

21 VICE-CHAIR RAMOS: Thank you.

22 Any other questions from Commissioners?

23 (No response.)

1 VICE-CHAIR RAMOS: Thank you, Deputy
2 Director.

3 MR. FLEISCHHACKER: You're welcome.

4 VICE-CHAIR RAMOS: Item V is Old
5 Business, and we have the Commissioners that have
6 been appointed. The next case that we have for
7 review and recommendation is Cary Lynch versus
8 New Albany Housing Authority, Case
9 No. HOra23090724, and this was assigned to
10 Comm. Tolliver.

11 Do you have a recommendation?

12 COMM. TOLLIVER: There were two
13 issues here, no reasonable cause -- is this not
14 an oral argument?

15 VICE-CHAIR RAMOS: It's not listed as
16 having an oral argument.

17 MR. LOSTUTTER: The first case, no,
18 it is not an oral argument.

19 COMM. TOLLIVER: Okay. So, the first
20 issue, there was no reasonable cause under the
21 Indiana Fair Housing Act and no probable cause
22 under the Indiana Civil Rights Law, and for the
23 second issue, we're just saying no -- I'd ask

1 that we accept the Commission's finding of no
2 reasonable cause under the Indiana Fair Housing
3 Act and no probable cause under the Indiana Civil
4 Rights law.

5 VICE-CHAIR RAMOS: I need a motion to
6 approve.

7 COMM. JACKSON: So moved.

8 COMM. HARRINGTON: Second.

9 VICE-CHAIR RAMOS: It's seconded.

10 MR. LOSTUTTER: We will go ahead and
11 call the roll.

12 VICE-CHAIR RAMOS: Yeah. All those
13 in favor --

14 MR. LOSTUTTER: Yeah.

15 VICE-CHAIR RAMOS: All those in
16 favor, signify by saying aye.

17 COMM. SILBERBERG: Aye.

18 COMM. HARRINGTON: Aye.

19 COMM. JACKSON: Aye.

20 COMM. TOLLIVER: Aye.

21 VICE-CHAIR RAMOS: Aye.

22 Any opposed?

23 (No response.)

1 VICE-CHAIR RAMOS: Any abstentions?

2 (No response.)

3 VICE-CHAIR RAMOS: Motion carries.

4 The next case is Joseph Maher versus
5 Charlestowne LLC & Freeman Development
6 Corporation, Case No. H0se23080674. That case
7 was assigned to me, and we have reference for
8 oral arguments. I believe we have at least the
9 Respondent on the phone.

10 MR. WILEY: Correct. This is Craig
11 Wiley.

12 VICE-CHAIR RAMOS: Do we have the
13 Complainant as well?

14 MR. FLEISCHHACKER: We do not.

15 VICE-CHAIR RAMOS: Okay.

16 So, the process for the oral argument is
17 we normally give each party five minutes of
18 opportunity to express their concerns or issues,
19 and then we would also provide a minute of
20 rebuttal, or two, if needed. Since there's --
21 the Complainant is not on, I will allow the
22 representative for the Respondent to plead their
23 case. So, I will give you five minutes.

1 Michael, Docket Clerk, will you monitor
2 the time, please?

3 MR. LOSTUTTER: I will.

4 VICE-CHAIR RAMOS: Mr. Wiley, you
5 have the floor.

6 MR. WILEY: Good afternoon, Board.

7 COMM. HARRINGTON: Good afternoon.

8 MR. WILEY: I -- since there were no
9 prehearing submissions, I'm not sure what the
10 basis for Mr. Maher's appeal is, but I can tell
11 you what the basis of the case is. Is that what
12 you'd like to hear?

13 VICE-CHAIR RAMOS: Yeah. You're --
14 you're pleading your position from the
15 Respondents' standpoint on whether the Deputy
16 Director has posted their issues and findings --

17 MR. WILEY: Yes.

18 VICE-CHAIR RAMOS: -- for each issue.
19 So, you're provided an --

20 MR. WILEY: Yes. Thank you.

21 VICE-CHAIR RAMOS: -- opportunity for
22 oral argument.

23 MR. WILEY: Yes. Thank you very

1 well.

2 So, the -- the Respondent had to evict
3 Mr. Maher, and the reasons are well documented in
4 the position statement. He had engaged in
5 behaviors that caused fear in the community,
6 especially among the female tenants, and those
7 are set forth in witness statements, again, in
8 the position statements.

9 The -- Charlestowne did an investigation
10 based on the witness statements and the
11 allegations made against Mr. Maher, including
12 conducting an interview of him and hearing his
13 side of the story, and they made a decision on
14 August 1st to evict him.

15 Fifteen days later, the property manager
16 received an e-mail from Mr. Maher saying that he
17 had -- he suffers from OCD and anxiety and he had
18 a fear of dogs, and he wanted the property to
19 leash dogs, have leashed dogs, which is already
20 their policy, and that he remain on the property.

21 Then later that day, the community
22 received another e-mail from a -- from a patient
23 advocate from St. Vincent, again stating that he

1 was undergoing outpatient treatment for OCD, and
2 that he had a fear of dogs, leashed and
3 unleashed, and that -- again, that he wanted to
4 remain on the property. And the -- it was
5 something that they -- they just simply could not
6 accommodate his behaviors. So, eventually he
7 was -- he moved out and vacated the property.

8 So, essentially this case is based on two
9 issues: You know, whether he was denied a
10 reasonable accommodation, and whether he was
11 subjected to sex discrimination.

12 As to the reasonable accommodation claim,
13 you know, as far as leashed dogs, that's their
14 policy, and he signed that he knew that, he
15 signed as part of the lease to have the
16 requirement that tenants have their dogs on a
17 leash. So, they are already doing that.

18 As far as his fear of dogs, when he -- he
19 signed a -- again, on the lease it said that it
20 was a pet-friendly environment, so that was
21 something they -- his fear of dogs was something
22 they could not accommodate.

23 As far as his behaviors, again, you

1 know -- and they're well documented in the
2 position statement -- again, that's something
3 that they simply could not accommodate because of
4 the fear it caused in the community among the
5 female tenants.

6 MR. LOSTUTTER: One minute.

7 MR. WILEY: Several -- go ahead; I'm
8 sorry.

9 MR. LOSTUTTER: There's one minute
10 left.

11 MR. WILEY: One minute? Okay. Thank
12 you. Sure.

13 So, again, his behaviors was something
14 they simply could not accommodate and, in fact,
15 it placed them in legal jeopardy if the property
16 did not take some sort of action, which they did.

17 As far as the sex discrimination, the
18 basis is, is that the individuals who filed the
19 complaints were all females. That's -- that's
20 simply not a basis to show that he was subjected
21 to sex discrimination.

22 So, in essence, the question before the
23 Commission would be what would -- what was the

1 property supposed to do? They had to take some
2 sort of action, and in fact, I think it's even in
3 one of the statements that the fear he caused
4 with one of the female tenants, she asked to be
5 released from her lease, and the property did
6 have --

7 MR. LOSTUTTER: Time.

8 MR. WILEY: There's also some police
9 reports, so --

10 VICE-CHAIR RAMOS: Thank you.

11 MR. WILEY: -- so, in essence, that's
12 the -- thank you.

13 VICE-CHAIR RAMOS: The Complainant
14 is -- again, is not present --

15 MR. LOSTUTTER: Not present.

16 VICE-CHAIR RAMOS: -- on the phone or
17 in person, and each of us have had an opportunity
18 to review this case. It is my recommendation,
19 since it was assigned me, on all three issues, to
20 uphold the Deputy Director's finding of no
21 reasonable cause under the Indiana Fair Housing
22 Act, and no probable cause under the Indiana
23 Civil Rights Law.

1 We need a motion to approve.

2 COMM. HARRINGTON: So moved.

3 VICE-CHAIR RAMOS: We need a second.

4 COMM. SILBERBERG: Second.

5 VICE-CHAIR RAMOS: And we need to
6 vote on this.

7 MR. LOSTUTTER: Yes.

8 VICE-CHAIR RAMOS: All those in favor
9 of the motion, please signify by saying aye.

10 COMM. SILBERBERG: Aye.

11 COMM. HARRINGTON: Aye.

12 COMM. JACKSON: Aye.

13 COMM. TOLLIVER: Aye.

14 VICE-CHAIR RAMOS: Aye.

15 Are there any opposed?

16 (No response.)

17 VICE-CHAIR RAMOS: Any abstentions?

18 (No response.)

19 VICE-CHAIR RAMOS: Motion carries.

20 Thank you, Mr. Wiley.

21 The next case is Ashleigh Foster versus
22 Hamilton National Title, LLC doing business as
23 Near North Title. That's Case No. EMra23100624,

1 and this was assigned to Comm. Slash, and we will
2 continue this case in May.

3 Any questions on that?

4 (No response.)

5 VICE-CHAIR RAMOS: The next case is
6 Gary McElfresh versus Centennial of Cedar Lake
7 Townhomes Association, Inc. That's Case
8 No. H0re23110909, and that was assigned to
9 Comm. Silberberg.

10 COMM. SILBERBERG: Yes. I would
11 uphold no reasonable cause finding under the Fair
12 Housing Act and no probable cause under Indiana
13 Civil Rights Law.

14 VICE-CHAIR RAMOS: Thank you.

15 I need a motion to approve.

16 COMM. JACKSON: So moved.

17 VICE-CHAIR RAMOS: I need a second.

18 COMM. TOLLIVER: Second.

19 VICE-CHAIR RAMOS: Second. Sorry for
20 the interruption here. All those in favor,
21 please signify by saying aye.

22 COMM. SILBERBERG: Aye.

23 COMM. HARRINGTON: Aye.

1 COMM. JACKSON: Aye.

2 COMM. TOLLIVER: Aye.

3 VICE-CHAIR RAMOS: Aye.

4 Any opposed?

5 (No response.)

6 VICE-CHAIR RAMOS: Any abstentions?

7 (No response.)

8 VICE-CHAIR RAMOS: Motion carries.

9 The next case is Carly Vanarsdall versus
10 LD 303 Associates, LLP, Van Rooy Properties & The
11 Washington. It's Case No. HOha23110912. That
12 was assigned to Comm. Tolliver.

13 COMM. TOLLIVER: Yes. There were two
14 issues here, and I'd recommend we accept the
15 Commission's findings of no reasonable cause
16 under Indiana's Fair Housing Act and no probable
17 cause under the Indiana Civil Rights Law for both
18 of them.

19 VICE-CHAIR RAMOS: Thank you,
20 Commissioner.

21 I need a motion to approve.

22 COMM. HARRINGTON: So moved.

23 VICE-CHAIR RAMOS: I need a second.

1 COMM. SILBERBERG: Second.

2 VICE-CHAIR RAMOS: Second. All those
3 in favor, please signify by saying aye.

4 COMM. SILBERBERG: Aye.

5 COMM. HARRINGTON: Aye.

6 COMM. JACKSON: Aye.

7 COMM. TOLLIVER: Aye.

8 VICE-CHAIR RAMOS: Aye.

9 Any opposed?

10 (No response.)

11 VICE-CHAIR RAMOS: Any abstentions?

12 (No response.)

13 VICE-CHAIR RAMOS: Motion carries.

14 The next case, Jeffrey House versus G. W.
15 Berkheimer Company, Inc., Case No. EMha23030248,
16 and that was assigned to Comm. Harrington.

17 COMM. HARRINGTON: Yes. In this case
18 I would recommend that we uphold the no probable
19 finding under Indiana Civil Rights Law.

20 VICE-CHAIR RAMOS: I need a motion to
21 approve.

22 COMM. SILBERBERG: So moved.

23 VICE-CHAIR RAMOS: I need a second.

1 COMM. TOLLIVER: Second.

2 VICE-CHAIR RAMOS: All those in
3 favor, signify by saying aye.

4 COMM. SILBERBERG: Aye.

5 COMM. HARRINGTON: Aye.

6 COMM. JACKSON: Aye.

7 COMM. TOLLIVER: Aye.

8 VICE-CHAIR RAMOS: Aye.

9 Any opposed?

10 (No response.)

11 VICE-CHAIR RAMOS: Any abstentions?

12 (No response.)

13 VICE-CHAIR RAMOS: Motion carries.

14 The next case is Toriann Alvarado versus
15 Hoosier Staffers, Inc., Case No. EMra22080471,
16 and this is scheduled for oral arguments as well.

17 MR. LOSTUTTER: Yes.

18 VICE-CHAIR RAMOS: Do we have
19 either --

20 MR. LOSTUTTER: We have a
21 representative for the Respondent.

22 MR. BARCHET: Yes.

23 MR. LOSTUTTER: And -- but we do not

1 have the Complainant, either in person or on the
2 line.

3 VICE-CHAIR RAMOS: Okay.

4 Would you please identify yourself?

5 MR. BARCHET: Yes. My name is Andrew
6 Barchet. I'm an attorney representing Hoosier
7 Staffers.

8 VICE-CHAIR RAMOS: Okay. I don't
9 know if you heard our previous dialogue, but
10 we'll give you five minutes to plead your
11 position, and since we do not have -- or at least
12 do not have the Complainant yet, we will listen
13 to your arguments and make a decision.

14 MR. BARCHET: Thank you, Vice-Chair
15 Ramos, and thank you, Commissioners, for the
16 opportunity to be heard today.

17 I'll keep it brief. Ms. Alvarado filed
18 her Equal Opportunity -- or Equal Employment
19 Opportunity Commission violation against Hoosier
20 Staffers on June 13 of 2022. It was then
21 transferred to the Commission for investigation,
22 and the Indiana Civil Rights Commission issued
23 its findings on February 19th of 2024, already

1 stating that they found no comments that
2 Ms. Alvarado had alleged against her were severe
3 and pervasive enough or had to do at all with her
4 race.

5 Hoosier Staffers, while technically her
6 employer, was a hiring agency that shipped her --
7 send her to different locations. She faced the
8 alleged comments at these different locations.
9 Hoosier Staffers still took the time to make
10 sure, pull her from those less-than-ideal
11 environments, and place her to another facility
12 where she could still enjoy employment.

13 The Commission found that they immediately
14 took corrective action, and that Hoosier Staffers
15 was not in charge of supervising or directing
16 Ms. Alvarado or any of the alleged speakers of
17 such comments.

18 And so, for Ms. Alvarado to win on her
19 complaint, she would have to show that she was
20 subjected to unwelcome comments or actions that
21 related to her race or her gender that were
22 severe or pervasive, she made known they were
23 unwelcome, and Respondent failed to take

1 corrective action, and she was failed to
2 resign -- or she was forced to resign as a
3 result.

4 And as we described here, the Commission
5 found that they were not severe or pervasive
6 enough to warrant the discrimination that she's
7 alleging, and Hoosier Staffers immediately took
8 the steps necessary to correct this situation,
9 and she was not forced to resign as a result.
10 She was able to maintain employment working at
11 other facilities. So, we just ask that you find
12 in line with the Civil Rights Commission Deputy
13 Director.

14 Thank you very much.

15 VICE-CHAIR RAMOS: Are there any
16 questions for him?

17 (No response.)

18 VICE-CHAIR RAMOS: Okay. I have
19 reviewed this case, and it is my recommendation
20 that we uphold the Deputy Director's finding of
21 no probable cause under the Indiana Civil Rights
22 Law. If there would be a motion, I'd appreciate
23 that.

1 COMM. JACKSON: So moved.

2 VICE-CHAIR RAMOS: I need a second.

3 COMM. TOLLIVER: Second.

4 VICE-CHAIR RAMOS: All those in
5 favor, signify by saying aye.

6 COMM. SILBERBERG: Aye.

7 COMM. HARRINGTON: Aye.

8 COMM. JACKSON: Aye.

9 COMM. TOLLIVER: Aye.

10 VICE-CHAIR RAMOS: Aye.

11 Any opposed?

12 (No response.)

13 VICE-CHAIR RAMOS: Any abstentions?

14 (No response.)

15 VICE-CHAIR RAMOS: Motion carries.

16 Thank you, Mr. Barchet.

17 MR. BARCHET: Thank you,

18 Commissioners.

19 VICE-CHAIR RAMOS: The next case is
20 Vicky Newman versus Tenneco Automotive Operating
21 Company, Inc. The Case Number is EMha23070622,
22 and this was assigned to Chair Slash, and since
23 she's not here, we will continue this case in

1 May.

2 That's all of the Old Business. We'll
3 move on to New Business, and there are three
4 cases to assign. The first case is Paula Lydia
5 Castillo versus the Indiana Department of
6 Correction, Case No. EMno23100774, and I will
7 assign that case to me.

8 The next case is Constance Kalb versus AAM
9 Professional Services Vandalia By Del Web
10 Homeowners' Association, Inc. & Associated Asset
11 Management LLC. The Case Number is HOha23110913.
12 I'll assign that to Comm. Harrington.

13 The next case is Marckennedy Fils-Aime
14 versus Covanta Energy, LLC doing business as
15 Covanta Indianapolis, Inc. The Case Number
16 is EMno23100789. They're also requesting oral
17 arguments, and I will assign that to
18 Comm. Tolliver.

19 Any questions on any of that?

20 (No response.)

21 VICE-CHAIR RAMOS: That takes us to
22 the next portion, which are Motions and Filings.
23 There are none. And then it's review of ALJ

1 Decisions and Orders. This is the Administrative
2 Law Judge's disposing of proceedings that
3 become -- proceedings that become order -- a
4 final order when affirmed under the Indiana Civil
5 Rights Law, 4-21.5-3-21 -- 29; I'm sorry -- and
6 Indiana Code 4-21.5-3-27(a). We do have to have
7 votes required.

8 This is Shanita Redd, and on behalf of
9 Minor Child M.R. versus Parkview Behavioral
10 Health. The Case Number is PAra21080238, and
11 this was submitted to the Commission on
12 March 4th.

13 On April 28th, '23, the Complainant, by
14 private counsel, filed a complaint against the
15 Respondent and others in the United States
16 District Court for the Northern District of
17 Indiana, Case No. 1.23-CV-00179, based on the
18 same issues before the Indiana Civil Rights
19 Commission in Complainant's August 21st
20 complaint.

21 Complainant, by the Indiana Civil Rights
22 Commission Staff Attorney Fred Bremer, moved to
23 dismiss the complaint filed in this matter, as

1 Indiana Code Section 22-9-1-6 -- I believe that's
2 a (q) -- states that the minute the complaint
3 becomes the subject of an action in federal
4 court, all actions shall immediately cease.

5 The ALJ grants the Complainant's motion
6 and dismisses the complaint with prejudice, 90 --
7 I'm sorry -- 910 IAC 1-3-6. The objection period
8 in this matter has closed, but we do need a
9 motion; correct?

10 MR. LOSTUTTER: Yes.

11 VICE-CHAIR RAMOS: We need a motion
12 to approve -- I need a motion to approve the
13 recommendations from the ALJ.

14 COMM. JACKSON: So moved.

15 VICE-CHAIR RAMOS: I need a second.

16 COMM. SILBERBERG: Second.

17 VICE-CHAIR RAMOS: All those in
18 favor, signify by saying aye.

19 COMM. SILBERBERG: Aye.

20 COMM. HARRINGTON: Aye.

21 COMM. JACKSON: Aye.

22 COMM. TOLLIVER: Aye.

23 VICE-CHAIR RAMOS: Aye.

1 Any opposed?

2 (No response.)

3 VICE-CHAIR RAMOS: Any abstentions?

4 (No response.)

5 VICE-CHAIR RAMOS: The motion

6 carries.

7 The next item on the agenda is

8 ICRC/Samantha Knapp versus B & Z Rentals, Case
9 No. HOrt22020035, submitted to the Commission on
10 March 8th, 2024.

11 The Administrative Law Judge in this
12 matter has determined that the Complainant has
13 failed to meet the burden of proof, and thus has
14 ruled against her and in favor of the Respondent,
15 dismissing her complaint and the IR -- ICRC
16 Director's charge, with prejudice. The objection
17 period in this matter has closed.

18 We need a motion on this?

19 MR. LOSTUTTER: Yes.

20 MR. FLEISCHHACKER: (Nodded yes.)

21 VICE-CHAIR RAMOS: We do? Yeah.

22 All right. I need a motion to approve the
23 recommendation.

1 COMM. TOLLIVER: So moved.

2 MR. FLEISCHHACKER: You're affirming
3 the ALJ order.

4 VICE-CHAIR RAMOS: Affirming the
5 ALJ's recommendation.

6 COMM. TOLLIVER: So moved.

7 VICE-CHAIR RAMOS: I need a second.

8 COMM. HARRINGTON: Second.

9 VICE-CHAIR RAMOS: All those in
10 favor, signify by saying aye.

11 COMM. SILBERBERG: Aye.

12 COMM. HARRINGTON: Aye.

13 COMM. JACKSON: Aye.

14 COMM. TOLLIVER: Aye.

15 VICE-CHAIR RAMOS: Aye.

16 Any opposed?

17 (No response.)

18 VICE-CHAIR RAMOS: Any abstentions?

19 (No response.)

20 VICE-CHAIR RAMOS: Motion carries.

21 Item III is ICRC/Brian Spencer versus the
22 City of Greenburg, Case No. HOha22070370,
23 submitted to the Commission on February 23rd,

1 2024.

2 The Administrative Law Judge in this
3 matter has determined that the Respondent is
4 entitled to their Motion for a Summary Judgment,
5 and that their designated evidence shows that the
6 complainant -- the complaint of the Complainant
7 has no genuine issue of material fact and is
8 dismissed, with the Respondent's Motion for
9 Summary Judgment is granted. The objection
10 period in this matter has closed.

11 I need a motion to affirm the ALJ's
12 recommendation.

13 COMM. JACKSON: So moved.

14 VICE-CHAIR RAMOS: I need a second.

15 COMM. SILBERBERG: Second.

16 VICE-CHAIR RAMOS: All those in
17 favor, signify by saying aye.

18 COMM. SILBERBERG: Aye.

19 COMM. HARRINGTON: Aye.

20 COMM. JACKSON: Aye.

21 COMM. TOLLIVER: Aye.

22 VICE-CHAIR RAMOS: Aye.

23 Any opposed?

1 (No response.)

2 VICE-CHAIR RAMOS: Any abstentions?

3 (No response.)

4 VICE-CHAIR RAMOS: Motion carries.

5 Section d., ALJ's Decisions Automatically
6 Confirmed, automatically confirmed under the
7 Commission's Order of automatic -- on automatic
8 adoption and approval of certain nonfinal
9 decisions. No vote is required. And this is the
10 case of Courtney Mallory versus Spherion
11 Staffing, LLC, Case No. EMse23010067, and that
12 was submitted to the Commission on April 1st --
13 4th, 2024.

14 Okay. The next item is meetings for 2024.
15 Our next meeting is on May 20th. May 20th,
16 I'm -- are there any concerns that anyone has on
17 the 20th?

18 (No response.)

19 VICE-CHAIR RAMOS: I have to look at
20 my calendar real quick.

21 MR. FLEISCHHACKER: And we were
22 thinking -- typically April is our training month
23 meeting. We're going to do that -- looking at

1 doing that in May, so we would have the
2 Commissioners arrive an hour early, so starting
3 at noon, lunch would be provided, and we'd take
4 that hour in Executive Session to do training,
5 talk about House Bill 1003, and other things.
6 We're going to use that as our annual training
7 time, so --

8 VICE-CHAIR RAMOS: Are there any
9 conflicts on anyone's schedule for the 20th?

10 COMM. SILBERBERG: I may not be -- I
11 may not be able to be in person for that one.

12 MR. FLEISCHHACKER: Okay.

13 COMM. SILBERBERG: Would that be --
14 can I do remote, or --

15 MR. FLEISCHHACKER: Yeah, absolutely,
16 yes.

17 COMM. SILBERBERG: Okay.

18 VICE-CHAIR RAMOS: Any other
19 concerns, Commissioners?

20 (No response.)

21 VICE-CHAIR RAMOS: Okay. And are
22 there -- is the HUD Conference in June, on
23 the 17th?

1 MR. FLEISCHHACKER: No.

2 VICE-CHAIR RAMOS: Okay. There are
3 no other items connected with June? Because I
4 know the summertime gets really busy.

5 MR. FLEISCHHACKER: Not that I'm
6 aware of at this point. I know later that week
7 Summer Celebration starts, but that's not until
8 the 20th, but we would not -- our conference
9 for 2024 has not been confirmed yet for any
10 particular date, but it's likely going to be
11 later in the fall.

12 VICE-CHAIR RAMOS: Okay.

13 All right. So, we should be set for
14 the 20th, and then we'll look at the calendar for
15 the rest of that. Item VIII on the agenda is
16 Election and Training. Well, we'll review the
17 election process.

18 Indiana Code 22-9-1-5. The Indiana Civil
19 Rights Commission appoints members and meetings.
20 Section 5 of this reviews that at the first
21 meeting or each annual meeting, which is in
22 April, and thereafter, the Commission shall
23 organize by the election of a Chairman and a

1 Vice-Chairman for the membership, each of whom,
2 except these first -- with the exception of those
3 first elected, shall serve for a term of one year
4 and until -- or until his succession is elected.

5 The Commission shall hold one meeting a
6 month, of course, and the April meeting is that
7 meeting. So, we have to vote for Chair and for
8 Vice-Chair. I have received communications from
9 Chair Slash that she was happy to serve in any
10 capacity that the Commission so chooses, and as
11 the Vice-Chair, I also am willing to serve in any
12 capacity that -- it's been an honor for me, and I
13 know Chair Slash, and for each of us.

14 So, at this point, I will entertain any
15 motions. If more than one person is nominated,
16 then we'll provide an opportunity for each to
17 have two minutes to discuss why they want to
18 serve in each capacity. At this point, I'm open
19 for nominations.

20 COMM. HARRINGTON: I can make a
21 motion that we continue with Chair Slash as
22 President and Ramos as Vice-President, as it was
23 the last time we voted. The value of both of

1 them and the knowledge that they bring -- I know
2 you've served for a while, Adrienne has as well
3 recently, but not as long, so we have a history,
4 unless there's an interest of anyone else
5 present.

6 VICE-CHAIR RAMOS: Any comments or
7 questions?

8 (No response.)

9 VICE-CHAIR RAMOS: Her
10 recommendation -- we'll do each of these
11 individually, so the recommendation is for Chair
12 Slash to continue her role as Chair. I need a
13 second on that motion.

14 COMM. SILBERBERG: Second.

15 VICE-CHAIR RAMOS: Second by
16 Silberberg. All those in favor, signify by
17 saying aye.

18 COMM. SILBERBERG: Aye.

19 COMM. HARRINGTON: Aye.

20 COMM. JACKSON: Aye.

21 COMM. TOLLIVER: Aye.

22 VICE-CHAIR RAMOS: Aye.

23 Any opposed?

1 (No response.)

2 VICE-CHAIR RAMOS: Any abstentions?

3 (No response.)

4 VICE-CHAIR RAMOS: Motion carries.

5 Comm. Harrington has also recommended
6 Vice-Chair Ramos continue in his capacity as
7 Vice-Chair. Are there any other recommendations
8 or nominations?

9 (No response.)

10 VICE-CHAIR RAMOS: Hearing none,
11 we'll -- I need a second on that motion.

12 COMM. SILBERBERG: Second.

13 VICE-CHAIR RAMOS: Seconded. I need
14 a -- all those in favor, signify by saying aye.

15 COMM. SILBERBERG: Aye.

16 COMM. HARRINGTON: Aye.

17 COMM. JACKSON: Aye.

18 COMM. TOLLIVER: Aye.

19 VICE-CHAIR RAMOS: Aye.

20 Any opposed?

21 (No response.)

22 VICE-CHAIR RAMOS: Any abstentions?

23 (No response.)

1 VICE-CHAIR RAMOS: Motion carries.

2 Okay. Back to the agenda. Are there any
3 announcements?

4 MR. FLEISCHHACKER: Vice-Chair Ramos,
5 I do have an "Other"; it's not really an
6 announcement. Under the Commission's
7 Administrative Code, if a matter has been set for
8 a hearing, then the Commission needs to provide
9 written consent for a complaint to be withdrawn
10 against a respondent if it's been set for a
11 hearing.

12 We do have a situation where we have a
13 hearing that's scheduled for later this week, and
14 there are two Respondents in the matter, and
15 we've recently come to agreement terms with one
16 of the Respondents, but in order for the
17 complaint to get withdrawn against -- or against
18 them, the Commission needs to consent to that.

19 So, Fred's working on a document for you
20 guys to sign, so I just wanted to let you guys --
21 let it be known to you it's not something that
22 needs to be done in official business during the
23 Commission meeting, but if we could maybe hang

1 out for just a couple of minutes while he's
2 putting that together, we would appreciate that.

3 VICE-CHAIR RAMOS: Okay. Thank you.

4 I know on behalf of Chair Slash and
5 myself, we both thank you for the vote of
6 confidence in each of our roles. We enjoy the
7 capacity as well as serving with each of you.

8 Are there any other announcements?

9 (No response.)

10 VICE-CHAIR RAMOS: Are there any
11 public comments?

12 (No response.)

13 VICE-CHAIR RAMOS: Hearing none, I
14 move to adjourn the meeting. It is 1:57.

15 Thank you all. I appreciate it.

16 COMM. SILBERBERG: Thank you.

17 - - -
18 Thereupon, the proceedings of
19 April 15, 2024 were concluded
20 at 1:57 o'clock p.m.
21 - - -

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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 Monday, April 15, 2024 in this matter and transcribed by me.

Lindy L. Meyer Jr.
Lindy L. Meyer, Jr.,
Notary Public in and
for the State of Indiana.

My Commission expires August 26, 2024.

Commission No. NP0690003

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