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BEFORE THE STATE OF INDIANA

CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF JUNE 17, 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,
June 17, 2024 at 1:12 o'clock p.m.

- - -

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APPEARANCES:

COMMISSION MEMBERS:

- Adrienne L. Slash, Chairperson
- Steven A. Ramos
- Holli Harrington
- Sue Silberberg
- James W. Jackson (via Zoom)
- Terry Tolliver

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

OTHER COMMISSION STAFF PRESENT:

- Michael Lostutter
- Christiana Afuwape (via Zoom)

ALSO PRESENT:

- Douglas Vogel (via Zoom)
- Peter Komsiski (via Zoom)
- Marckennedy Fils-Aime (via Zoom)
- Anna Norman (via Zoom)
- Laura Molling (via Zoom)
- Melvin Lipscomb

- - -

1 1:12 o'clock p.m.
June 17, 2024

2 - - -

3 CHAIRPERSON SLASH: It's 1:15 on
4 Monday, June 17th. I call this meeting of the
5 Indiana Civil Rights Commission to order.

6 MR. LOSTUTTER: All righty.

7 Please be advised no party will be allowed
8 to speak directly to the Commission during any
9 Commission meeting except during a previously
10 scheduled oral argument. Concerning appeals, the
11 Commissioners will make their initial
12 determination based on the complaint, the notice
13 of finding, the appeal, and the final
14 investigative report. You must not address the
15 Commission members except and unless you are
16 addressed by them. If you have any questions
17 about your case, please wait to speak to the
18 Docket Clerk until after the Commission meeting.

19 Thank you.

20 CHAIRPERSON SLASH: Okay. I believe
21 we have our quorum, plus one -- or plus two.
22 It's a good day.

23 We can announce the agenda.

1 MR. LOSTUTTER: The meeting, we will
2 convene the meeting, have quorum established,
3 then announcement of agenda, approval of previous
4 meeting minutes, the ICRC Director's Report, Old
5 Business, Commissioners appointed to appeals,
6 report the determinations, New Business,
7 appointment of Commissioners to Complainants'
8 appeals, the Director's findings, along with a
9 motion to -- unopposed motion to dismiss.

10 We have review of ALJ decisions and
11 orders, and we then have the automatically
12 confirmed ALJ decisions to be read into the
13 record, and then discuss maybe the meeting dates
14 for the rest of the year, and any other
15 announcements, and public comment.

16 CHAIRPERSON SLASH: Thank you very
17 much.

18 Okay. At this time, is there a motion to
19 approve last month's meeting minutes?

20 VICE-CHAIR RAMOS: So moved.

21 CHAIRPERSON SLASH: Thank you.

22 Is there a second?

23 COMM. TOLLIVER: Second.

1 CHAIRPERSON SLASH: Thank you.

2 MR. LOSTUTTER: All right. We will
3 call the roll.

4 Comm. Jackson?

5 (No response.)

6 COMM. HARRINGTON: Is he muted?

7 MR. LOSTUTTER: I don't --

8 CHAIRPERSON SLASH: Comm. Jackson,
9 are you muted?

10 MR. LOSTUTTER: I don't think so.
11 I'll try it again.

12 Comm. Jackson?

13 COMM. JACKSON: Aye.

14 MR. LOSTUTTER: Comm. Harrington?

15 COMM. HARRINGTON: Aye.

16 MR. LOSTUTTER: Comm. Silberberg?

17 COMM. SILBERBERG: Aye.

18 MR. LOSTUTTER: Comm. Tolliver?

19 COMM. TOLLIVER: Aye.

20 MR. LOSTUTTER: Vice-Chair Ramos?

21 VICE-CHAIR RAMOS: Aye.

22 MR. LOSTUTTER: Chair Slash?

23 CHAIRPERSON SLASH: Aye.

1 MR. LOSTUTTER: The ayes have it --

2 CHAIRPERSON SLASH: Okay. We'll
3 begin with --

4 MR. LOSTUTTER: -- six to nothing.

5 CHAIRPERSON SLASH: -- the ICRC
6 Director's Report.

7 MR. FLEISCHHACKER: All right. Thank
8 you, Chair Slash.

9 We've got a few events coming up here
10 soon. This upcoming Saturday, June 22nd, we're
11 hosting the Negro League Civil Rights Night with
12 the Indianapolis Indians. If any of the
13 Commissioners are interested in attending and
14 have not already made contact to do so, you're
15 welcome to go through either Mike or myself and
16 we'll connect you with the appropriate staff in
17 our External Affairs area to make sure that
18 you're taken care of for the game.

19 Next Tuesday, June 25th, is the Governor's
20 Awards Reception as part of the Summer
21 Celebration, where we'll be recognizing several
22 community members and one ICRC staff member. So,
23 that's the afternoon of June 25th, so we welcome

1 and would love to have you in attendance if your
2 schedule permits you to do so. If you need
3 additional information on that, that's, I think,
4 available on the ICRC Web site, or you can --
5 like I said, you can get in touch through either
6 Mike or myself to our External Affairs team.

7 And then obviously there's a lot going on
8 with the Summer Celebration, and we'll have a
9 booth at the Health Fair over the weekend of
10 June 28th through the 30th, so if you're in
11 attendance there, please stop by and say "Hi" to
12 our staff.

13 As far as other things going on, we
14 have -- this month concludes our HUD contract
15 for the year. Our HUD contracts are on a
16 July-1-through-June-30th cycle, and we're -- as
17 we're nearing that, it looks like we'll be just a
18 few cases short of where we've been the last two
19 years. The last two years we've been in the
20 low-to-mid 160's. Right now we're in the
21 low-to-mid 150's, so still pretty close. We'll
22 see if we get a few more cases between now and
23 the end of the month that we're able to close out

1 to close that gap, but we should be in the
2 similar ballpark as we've been the last couple of
3 years for that.

4 The EEOC contract, we're full steam on
5 that. Actually we're at this point -- that
6 contract goes October 1 through September 30th,
7 and we're already pretty close to completing that
8 effort for this year, and so, we're trying to
9 modify that upward. EEOC has some funding
10 constraints this year, so we'll see if we're able
11 to adjust upward or not. If not, we're going to
12 slow down our pace for the last three quarters of
13 the contract year, and then those cases will get
14 processed into next year's EEOC contract.

15 We're starting to engage in some
16 rulemaking pursuant to House Bill 6 -- or House
17 Enrolled Act 1623 from two years ago. We're
18 required to add some guidance for the civil
19 penalty that the Commission is able to assess for
20 Fair Housing cases, so we're going to be
21 incorporating the factors that are included on
22 the Federal Fair Housing Rules and Regulations,
23 so we're just going to incorporate those into our

1 rules to provide guidance to the Commission and
2 the ALJ's when they determine whether or not a
3 civil penalty is appropriate, and to what amount,
4 for any particular situation.

5 And then we have other rulemaking paths
6 that we need to take to do some additional
7 corrections and readoptions for the
8 administrative rules that we have, so we're
9 working through creating all of those pathways,
10 the different ones involved, different public
11 comment periods and different things like that.
12 So, to the extent that the Commission itself
13 needs to be involved, we'll make you aware at
14 those stages when it comes to it.

15 And then as far as metrics go through the
16 end of May, our calls and inquiries are pretty
17 flat compared to the same point last year.
18 Calls, we're tracking just under 4200 calls
19 through the end of May, and just over 1100
20 inquiries that we've had.

21 Complaints, we're at 442 through the end
22 of May that have been formalized. That's down 16
23 percent from this point last year; however, a

1 month ago, that gap was 35 percent, so we're
2 closing the gaps that existed there. Then
3 closures, we're up about five percent compared to
4 last year. We've closed 288 cases through the
5 end of May.

6 And then settlement relief through the end
7 of May, we have obtained around 409,000 in
8 settlement relief for Complainants, compared
9 to 462 at the same point last year, which is a
10 difference of 11 and a half percent at this
11 point, but again, that's a gap that's been
12 closing as well as the months have gone on.

13 We have currently 40 open litigation cases
14 and we've closed 31 already so far this year, so
15 that's kind of where we are metric-wise. We look
16 on target to be around the same place, you know,
17 trending toward where we were last year, which
18 was a really busy and good year for the
19 Commission, so we anticipate being in that same
20 ballpark this next year.

21 CHAIRPERSON SLASH: Thank you.

22 MR. FLEISCHHACKER: Yep.

23 CHAIRPERSON SLASH: Do any

1 Commissioners have questions?

2 (No response.)

3 CHAIRPERSON SLASH: Executive
4 Director Wilson, do you have anything you'd like
5 to say, comment, or mention as we move to the
6 next agenda item?

7 (No response.)

8 CHAIRPERSON SLASH: Okay. Thank you.
9 And David, thank you for sharing, but also
10 a thank you to the staff officially on record for
11 all of the hard work that they're doing. Keeping
12 pace is definitely something that's a lot of hard
13 work, so thank you.

14 Okay. We will move along to Old Business.
15 So, today we have two -- we have three oral
16 arguments out of our four Old Business cases that
17 we have here today, and with that in mind, I'll
18 just share the same thing at the beginning that
19 we'll use appropriately for all. For each oral
20 argument, we will have five minutes from the
21 Complainant, five minutes from the Respondent,
22 and then you'll each have two minutes to respond
23 to one another.

1 I will save time. We're not going to --
2 are we -- does that work for the ones who are on
3 screen? I hope that you all can hear me, and so
4 we'll do our very best. If you have the ability,
5 turn your camera on so we can see that you've
6 heard us or seen us when it's your time. That
7 would be helpful. It is not mandatory, but if
8 it's something that you can do, we invite you to.

9 So, we'll get started with the case of
10 Douglas Vogel versus Pedcor Investments 2000 XLI
11 LP, Case HOha23110912. Do we have both the
12 Respondent and the Complainant present?

13 MR. VOGEL: Yes.

14 CHAIRPERSON SLASH: Okay. I see the
15 Complainant. Is the Respondent present?

16 (No response.)

17 CHAIRPERSON SLASH: You might need to
18 unmute.

19 MR. KOMSISKI: Yes.

20 CHAIRPERSON SLASH: Okay. Thank you
21 very much. We will begin. Who has the timer?

22 MR. FLEISCHHACKER: I do.

23 CHAIRPERSON SLASH: Okay.

1 We will go ahead and begin, Mr. Vogel.

2 MR. VOGEL: Yes. I appreciate the
3 time today. I would just like -- so, I can ask
4 questions; is that right?

5 CHAIRPERSON SLASH: Well, you have
6 five minutes to share with us any information
7 that you would like to share, not adding anything
8 additional to what we already have. Is there any
9 additional information you want to tell us?

10 MR. VOGEL: Okay.

11 CHAIRPERSON SLASH: Okay.

12 MR. VOGEL: Just talking about the
13 things, then, that we had already discussed in
14 the findings, which is, you know, it said on page
15 two of the findings that there was a debate of --
16 I requested the use of a flotation device in the
17 pool, but the request wasn't necessary because
18 permission was already granted, given and
19 granted, you know, by Crystal Hancock that I
20 could go ahead and use a wide variety of
21 different flotation devices, not just including
22 rectangles and squares, but also spheres and
23 circles.

1 So, there was a wide variety of different
2 pool floaties that was allowed, and then they
3 said that it caused severe disruptions to the
4 access of the pool. In the next paragraph down,
5 midway, it says that the flotation device, you
6 know, caused disruptions, which was inaccurate.
7 You know, Crystal Hancock, just two days before
8 she had went on vacation, during the week that
9 all of these incidents happened, you know, had
10 told me what a good job I was doing as the pool
11 monitor, told me that I could take additional
12 liberties by keeping the pool open later on
13 exceptionally good evenings. And, you know, she
14 must have known that it was going to be a warm
15 week ahead, so she was, you know, just letting
16 people -- letting me know.

17 And then it said that -- later in that
18 same paragraph, that's the one, two -- third
19 paragraph on page two at the bottom, it says that
20 they assert that the police had to be called due
21 to the Complainant's behavior, but -- and I have
22 actually gotten a copy of that police report, and
23 there was actually no report filed even as a

1 result of this call.

2 This call -- this report was telling,
3 though, because, you know, it says in it that,
4 you know, the overlook, the individual calling,
5 which was Crystal Chandler, who was in charge
6 after Crystal Hancock went on vacation, that --
7 you know, that the officer informed her that I
8 wasn't trespassing, and that -- and that the
9 tenant had actually said that the overlook and
10 this tenant, me, that we don't get along and they
11 had wanted a report to assist in their eviction.
12 So, that's what this -- you know, this police
13 report says that, you know, even that they were
14 already looking for reasons to evict.

15 So, then we go to the actual eviction, and
16 the eviction itself -- you know, Indiana law
17 states that, you know, that you have to give
18 someone a 10-day notice to cure or to quit. You
19 know, that was never given. There was never a
20 10-day notice to cure or quit. There was only a
21 demand to move out, which I'm assuming that
22 Crystal Hancock had filled out in result of my
23 Section 8 status, because as a Section 8 tenant,

1 you know, there's different requirements for the
2 eviction than there is for a regular tenant.

3 So, then these -- one of them, it does
4 say, you know, that they could do 30 days, but
5 that 30 days is still 30 days to cure or quit.
6 So, then we're back to the same problem again,
7 which is: What was the purpose of the eviction?

8 Now, the law says that the reason for the
9 eviction has to have enough detail so that the
10 tenant can prepare a defense. You know, so that
11 when I go ahead and I try to defend myself
12 against this eviction, it has to be spelled out
13 enough what the reason -- the nature of the
14 eviction is. The closest I've come to that is on
15 page five of the re -- of the findings.

16 CHAIRPERSON SLASH: Thank you,
17 Mr. Vogel. We are --

18 MR. VOGEL: -- which on page five --

19 CHAIRPERSON SLASH: We are at the
20 five -- you can complete your thought here, but
21 we are at the end of your five minutes.

22 MR. VOGEL: Okay. Thank you.

23 So, then it says that I had received one

1 violation for the pool -- for the pool floatie,
2 and that there was two violations for refusing to
3 permit staff to enter the Complainant's unit, but
4 that's false. There was only one incident of a
5 refusal to allow immediate entry into the
6 apartment, which was rectified. So, by
7 December 12 -- well, by December 19th, when
8 Crystal had filed the eviction, there was
9 actually no reason at all to evict. You know,
10 she had no reason to evict.

11 And I thank you for your time today.

12 CHAIRPERSON SLASH: Yes. Thank you.

13 We now have five minutes for the
14 Respondent.

15 MR. KOMSISKI: Yes. Peter Komsiski
16 for the Respondent.

17 I understand Mr. Vogel's position on these
18 issues. I think what -- what is maybe not clear
19 from his comments are that he became so
20 aggressive in some of his behavior that the
21 people on the site were fearful of what he might
22 do, and this is the reason the police were
23 called.

1 You know, I'm not sure what the police
2 report states, I've not been privy to that
3 report, but -- I imagine it's subject to some
4 interpretation, but the fact is, and I think that
5 people in this meeting today who are here that
6 can testify with some accuracy because they were
7 there on the site or had contact with people who
8 were there on the site when these events
9 occurred, can testify to his demeanor. I have
10 had very, very limited contact with Mr. Vogel,
11 but I have also witnessed aggressive tendencies
12 that he exhibited in my presence.

13 Now, with regard to the -- well, with
14 regard to actually both incidents, I mean these
15 are -- both incidents were issues that not only
16 presented a problem for Mr. Vogel, they were
17 incidents that involved the safety of other
18 people. The floaties that he had in the pool
19 were of such large size that they actually
20 obscured the pool surface. Now, I think any
21 attempt to clear that kind of a pool area is
22 completely reasonable.

23 Now, there may be some rules at the pool

1 that allow certain types of smaller flotation
2 devices -- you see children in there sometimes --
3 but nothing the size of the floaties that he
4 introduced and claimed were for safety purposes.
5 In fact, flotation devices of that size that
6 completely obscure the pool are safety issues.
7 You can't see anybody who might be in need of any
8 help under those floating devices.

9 So, I just don't think there's any way
10 that this could be seen as a reasonable action.
11 And then when we asked that he remove them, he
12 became aggressive to the point that we felt it
13 necessary to call the police.

14 So, I'll leave that issue there, and we
15 may have comment from others at the site who are
16 more familiar with that issue.

17 CHAIRPERSON SLASH: You have two
18 minutes remaining.

19 MR. KOMSISKI: With respect to -- I'm
20 sorry?

21 CHAIRPERSON SLASH: You have two
22 minutes remaining.

23 MR. KOMSISKI: I'll be brief.

1 I -- with respect to the two incidents
2 where maintenance needed to enter his apartment
3 for various purposes, one was to investigate a
4 water leak. Water leaks can cause a tremendous
5 amount of damages. I believe he was given the
6 requisite notice. Nonetheless, he became
7 aggressive again, very determined not to let the
8 maintenance individual into his apartment. I
9 believe he finally relented after some cajoling.

10 The other issue, I believe, was routine
11 maintenance to, I believe it was, change a filter
12 in his apartment. I can't swear to that. Others
13 can maybe clarify. And that type of thing may
14 not be life-threatening, although filters that
15 get clogged can cause damage to the unit, and
16 they can result in fire under certain
17 circumstances. It's not just an issue for
18 Mr. Vogel; it's an issue for entire apartment
19 complex.

20 So, the fact that he was so unreasonable
21 in these -- both of these cases gave rise to the
22 decision to evict Mr. Vogel. This was not a
23 decision we made lightly, and it was not a

1 decision that we made with any sort of
2 retaliation or discrimination. These were simply
3 issues where his behavior was untenable at the
4 complex.

5 And with that, I'll yield my time to
6 anybody in the meeting who might want to comment
7 on anything I've said.

8 CHAIRPERSON SLASH: Okay. Thank you.

9 Mr. Vogel, that gives you two minutes to
10 respond.

11 (No response.)

12 CHAIRPERSON SLASH: You need to
13 unmute him.

14 MR. VOGEL: Mr. Komsiski has cited
15 that they didn't want to evict, but yet on
16 December 11th, when I had filed for a request for
17 the accommodation for additional time, you know,
18 that request was ignored and it was just
19 overlooked, you know, the amount of time that we
20 actually had to move.

21 And not only that, but that was during the
22 Thanksgiving holiday and pre-Christmas, which is
23 the hardest time of the year to try to find

1 special-need housing, such as I had to have a
2 ground-floor unit, and that ground-floor unit
3 also had to take my handicap-accessible dog. You
4 know, I have two daughters, minor daughters. You
5 know, they -- I just tried to move out as fast as
6 I could. And even after I was evicted, I still
7 couldn't find housing, replacement housing, until
8 mid-February, shortly before my lease would have
9 initially expired.

10 But another thing that was brought to my
11 attention was that, you know, when it comes to
12 the apartment, I've only denied entry one time to
13 Crystal Hancock, just the one time, that was it.
14 When it comes to filters being changed, I buy my
15 own filters, and the maintenance guy was always
16 welcome into my apartment, not just on the clock,
17 but off the clock as well. And there was no size
18 restriction for any type of flotation devices.

19 And on top of everything, you know,
20 there's some discrepancy about my demeanor when
21 it comes to these incidents and altercations
22 between the staff and myself, but I have recorded
23 every conversation and every interaction. I had

1 recently discovered those recordings just on
2 Friday, so I actually have those recordings and
3 those interactions.

4 You know, they don't take very long to
5 listen to, you know, but if they -- if you would
6 see fit to maybe give me a chance to present
7 those so that you can hear what my demeanor was
8 and what the logic was -- you know, everyone can
9 be heard clearly and visibly. You can get the
10 termination when they fired me, you can get
11 the -- you know, whether it be the guy screaming
12 at me, the maintenance guy, or them just not
13 caring about what's going on.

14 You know, and when it came to that pool
15 altercation, there was no violence at all on my
16 part, there was no threats, no cussing. You
17 know, it's clear that -- that there was, you
18 know, some concern over what was fair, because
19 other people had floaties in the pool that day,
20 and they were isolating me.

21 CHAIRPERSON SLASH: Thank you.

22 That's your --

23 MR. VOGEL: You know, and --

1 CHAIRPERSON SLASH: That is your
2 time.

3 MR. VOGEL: -- as I contested -- I
4 appreciate your time today. Thank you.

5 CHAIRPERSON SLASH: Yes, that's your
6 time. Thank you. And unfortunately, we can't
7 take in new things here at this time.

8 Correct?

9 MR. FLEISCHHACKER: No new evidence.

10 CHAIRPERSON SLASH: No new evidence
11 at this time.

12 We can now hear a two-minute response.

13 MR. KOMSISKI: Commissioners, may I
14 defer to others who may have had -- these are
15 factual assertions that Mr. Vogel has that I
16 cannot respond to because I was not present at
17 the actual interactions that he's referring to.
18 Is it possible that I can defer to others who may
19 have a comment on those situations?

20 CHAIRPERSON SLASH: This is not an
21 evidentiary hearing, so unfortunately, no. Your
22 response would be just in response or to close
23 out this oral argument. That's it.

1 past for various purposes, and we did not, and we
2 cannot, make exceptions for certain people and
3 not others. So, in the sense of being fair to
4 everyone, I think we couldn't have done what
5 Mr. Vogel is saying that we possibly could have.

6 CHAIRPERSON SLASH: Thank you.

7 Commissioners, are there any questions?
8 That concludes the oral argument in this matter.

9 (No response.)

10 CHAIRPERSON SLASH: No questions?

11 (No response.)

12 CHAIRPERSON SLASH: Okay. With that
13 being said, thank you both for your time today.

14 The case as provided to us and our
15 opportunity here is for recommendation. The case
16 was assigned to myself, and it is my
17 recommendation that we, in the two issues that
18 were presented, that -- the first issue, that we
19 uphold the Deputy Director's finding of no
20 probable cause under the Indiana Civil Rights
21 Act -- or the Indiana Civil Rights Law, and on
22 the second issue, uphold the Deputy Director's
23 finding of no probable or reasonable cause as

1 well.

2 Are there -- is there a motion?

3 VICE-CHAIR RAMOS: So moved.

4 CHAIRPERSON SLASH: Is there a
5 second?

6 COMM. TOLLIVER: Second.

7 CHAIRPERSON SLASH: Okay.

8 MR. LOSTUTTER: We will call the
9 roll.

10 Comm. Jackson?

11 (No response.)

12 MR. LOSTUTTER: Comm. Jackson?

13 COMM. JACKSON: Aye.

14 MR. LOSTUTTER: Comm. Harrington?

15 COMM. HARRINGTON: Aye.

16 MR. LOSTUTTER: Comm. Silberberg?

17 COMM. SILBERBERG: Aye.

18 MR. LOSTUTTER: Comm. Tolliver?

19 COMM. TOLLIVER: Aye.

20 MR. LOSTUTTER: Vice-Chair Ramos?

21 VICE-CHAIR RAMOS: Aye.

22 MR. LOSTUTTER: Chair Slash?

23 CHAIRPERSON SLASH: Aye.

1 MR. LOSTUTTER: The ayes have it, six
2 to zero.

3 CHAIRPERSON SLASH: Thank you.

4 And thank you both for your time.

5 The next case is Marckennedy Fils-Aime
6 versus Covanta Energy, LLC d/b/a Covanta
7 Indianapolis, Inc., Case EMrt24020070. The case
8 was assigned to Comm. Tolliver. We also have
9 oral argument.

10 Is there representation both from the
11 Respondent and is the Complainant present?

12 MS. NORMAN: Respondent is --

13 MR. FILS-AIME: Complainant is
14 present.

15 CHAIRPERSON SLASH: Okay.

16 MS. NORMAN: Respondent is also
17 present, Anna Norman.

18 CHAIRPERSON SLASH: Okay. Thank you.
19 We'll begin with five minutes from the
20 Complainant.

21 MR. FILS-AIME: Good evening, Your
22 Honor. My complaint is --

23 THE REPORTER: Have him identify

1 himself.

2 MR. FILS-AIME: -- retaliated against
3 because I filed a complaint --

4 CHAIRPERSON SLASH: Just a moment.

5 MR. FILS-AIME: -- of discrimination.

6 CHAIRPERSON SLASH: Just a moment.

7 Can you please state your first and last name for
8 our court reporter?

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

10 CHAIRPERSON SLASH: Thank you. You
11 may begin by just stating your name, and last
12 name.

13 (No response.)

14 CHAIRPERSON SLASH: Did we lose him?

15 MR. LOSTUTTER: We may have. I don't
16 see -- I don't see him up there.

17 CHAIRPERSON SLASH: Okay. Let's give
18 it a quick moment for technical difficulties. He
19 was in the flow and I stopped him.

20 (Discussion off the record.)

21 CHAIRPERSON SLASH: We'll give him
22 one more minute to try to rejoin. He was here
23 before, so he likely can get back. I appreciate

1 everyone's patience on this one. And if we don't
2 get him back, what I would like to do is move to
3 the next case and then come right back, because
4 technical difficulties do happen, and we can
5 reorder this by about 15 minutes.

6 MR. LOSTUTTER: So far I don't see
7 him.

8 CHAIRPERSON SLASH: You don't see
9 him? Oh, there we go. See? Because we had a
10 plan.

11 MR. FILS-AIME: Hello?

12 CHAIRPERSON SLASH: Welcome back.

13 MR. FILS-AIME: I apologize.

14 CHAIRPERSON SLASH: That's okay. If
15 you could just begin by stating your first and
16 last name, and then we will restart your five
17 minutes.

18 MR. FILS-AIME: Yes. My name is
19 Marckennedy Fils-Aime.

20 CHAIRPERSON SLASH: Okay. You may
21 begin.

22 MR. FILS-AIME: I believe I was
23 retaliated against by Covanta Energy because I

1 filed -- I believe it was within the month of
2 October I filed a discrimination complaint,
3 because I felt like the way I was being treated
4 was not the same as my peers. Immediately the
5 company, Covanta Energy, received the complaint
6 from Phil Wright.

7 The first action that was taken against me
8 by my supervisor, Stephen Hukill, was that he
9 pulled me into the office. At first he said
10 that, you know, I'm very political, and he can
11 show me that he can be political, too. The first
12 action that was taken against me that had never
13 been taken prior to that is that my overtime was
14 cut, and when I asked, "Why was my overtime cut?"
15 he told me it was something they were doing
16 because of the holiday.

17 I could understand that, but when I saw
18 that the other employees from the other shift
19 were working overtime throughout the whole week,
20 then -- and I said to myself, "Well, how come the
21 Boss Man said my overtime was being cut because
22 of the holiday?"

23 And then I waited, I was patient, I waited

1 till the next week. I asked the boss that day,
2 Stephen Hukill -- I always called him Boss Man --
3 I said, "Boss Man, I would like to sign up for
4 overtime coming this week." He said, "No." He
5 said, "I have to approve why you're coming in."
6 I said, "Boss Man, when I first started here, I
7 was told as long as I'm coming for training, I
8 can come." Up until now, I've never had this
9 situation. That's kind of weird.

10 The following week again -- because I had
11 to change my whole budget, because I was
12 averaging two to three overtimes, and all of
13 that, it was reflected on my paycheck stubs, so
14 it's not like I can just make this up. When he
15 was not giving me overtime and he got tired of
16 me, he said, "Well, I'm not the upshift
17 supervisor."

18 So, I called Kevin, who was upshift
19 supervisor. I asked, "Mr. Kevin, can I come in?"
20 Mr. Kevin said, "Well, I have a full shift, but
21 if you're coming in to do your GPI --" which is
22 your training, certification training. I was
23 working on getting my minimum requirements so I

1 can get my raise.

2 That same night I came in, after I was
3 authorized by Kevin, Stephen Hukill also came in,
4 and then he told me that I disrespected him by
5 asking another supervisor to work, when that was
6 never the case or the issue. The next thing I
7 got, while I was doing my GPI, they made a
8 ten-people phone call. This was explained to me
9 by Laura, the HR manager, that the reason why she
10 had to show up at 5:00 in the morning, because
11 they was calling me, they couldn't get ahold of
12 me.

13 And meanwhile, before I went to the -- do
14 the GPI testing, I asked -- I went to the control
15 room and reported to the control room exactly
16 where I was. When you're doing GPI testing, you
17 have a headphone in your ears. So, I had the
18 headphone in my ears, plus the place where I work
19 at makes a lot of noise. It's very difficult to
20 hear anyone, or the radio.

21 So, Stephen Hukill knew where I was,
22 because he came and got me to go to the office,
23 to the admin, and when I got there, they said

1 they was doing an evaluation, and unfortunately
2 for me, that -- that turned out to be ten people
3 calling on the call, according to Ms. Laura, that
4 I was just being unsafe.

5 But prior to me, you know, receiving the
6 radio, I spent almost two months without a radio,
7 and it was not a hazard or a safety issue at that
8 time. So, I believe all of that stuff took place
9 right after I filed the complaint, because they
10 thought I was being political. And then
11 following, after that, that situation, they --
12 Ms. Laura called me -- maybe like three days or a
13 week later -- called me into her office, said
14 that I was being investigated for discriminating
15 against my co-workers. And I asked her --

16 CHAIRPERSON SLASH: We've reached
17 time.

18 MR. FILS-AIME: -- "How it that?"
19 She said, "Because --"

20 CHAIRPERSON SLASH: We've reached
21 time at this time. We'll come back to you after
22 we hear five minutes from the Respondent.

23 We lost him again.

1 MR. LOSTUTTER: Yes. Hopefully he'll
2 call back again.

3 MS. NORMAN: Thank you,
4 Commissioners.

5 Just to briefly respond to some of the
6 things that Mr. Fils-Aime said, I --

7 COMM. TOLLIVER: We should wait for
8 Complainant.

9 MS. NORMAN: -- to just the oversight
10 issue --

11 CHAIRPERSON SLASH: Can we pause for
12 just a quick moment and see if he can rejoin us?
13 We dropped him again.

14 THE REPORTER: And I don't know who
15 this is, either.

16 CHAIRPERSON SLASH: Oh, yes. Can you
17 state your first and last name and your -- and
18 who you're representing?

19 MS. NORMAN: Yes. My name is Anna
20 Norman. I'm the employment counsel at Reworld,
21 formerly known as Covanta.

22 CHAIRPERSON SLASH: Thank you. And
23 we'll give it a brief moment and see if he can

1 rejoin us in the hearing.

2 (Pause in proceedings.)

3 CHAIRPERSON SLASH: Okay. Thank you
4 for rejoining us. We paused at the beginning of
5 the Respondent's response pending your return.
6 Thank you.

7 We can begin your time now.

8 MS. NORMAN: Thank you.

9 Just to address in -- I guess in very
10 brief detail, what the Complainant just alleged,
11 first, I think it's well noted and documented in
12 employment law that employees are not entitled to
13 overtime. Overtime can be at the discretion, per
14 our company policy, of their -- the supervisor or
15 manager that is on the shift.

16 And just with reference to some of the
17 things that Mr. Aime said about not getting
18 overtime, I think that part of the reason that
19 some of the overtime might not have been awarded
20 was due to the lengthy performance issues that
21 had started almost at the beginning of his
22 tenure, which were the subject of his original
23 complaint that this Commission upheld a finding

1 of no probable cause on, which, in turn, limited
2 certain opportunities that he would have been
3 able to have, because his performance was not
4 sufficient for additional time.

5 I think he just dropped off again.

6 CHAIRPERSON SLASH: So, we'll make a
7 quick pause.

8 MS. NORMAN: Sure.

9 CHAIRPERSON SLASH: Technology
10 sometimes can be spotty.

11 (Pause in proceedings.

12 MR. LOSTUTTER: There he is.

13 CHAIRPERSON SLASH: Okay.

14 You may begin.

15 MS. NORMAN: Yes.

16 So, just to finish that up, I think that
17 some of the issue with being -- feeling -- is one
18 of feeling entitled to overtime, because you're
19 not entitled to overtime, even if you think that
20 you may be able to receive it. And then I think
21 the second thing is, is with Mr. Fils-Aime, on
22 the characterization of overtime or lack of
23 overtime as an adverse action, I just don't think

1 that that comports with actual case law.

2 I think, just going to Mr. Fils-Aime's
3 complaint, though, with the Commission, he -- the
4 investigation that he leaves -- he left out this
5 part of the detail. The investigation was
6 because he had told three other employees on
7 separate occasions that he admired and was
8 sympathetic of the Ku Klux Klan, that he admired
9 their brotherhood, and that discriminatory
10 language and offensive language to other
11 employees was the reason that we initiated an
12 investigation after his original complaint. So,
13 I think that that kind of activity, which --

14 He is now gone.

15 CHAIRPERSON SLASH: Okay.

16 MS. NORMAN: I'll wait until he comes
17 back.

18 CHAIRPERSON SLASH: I appreciate your
19 patience as we hit our starts and stops.

20 MS. NORMAN: Sure. No problem.

21 (Pause in proceedings.)

22 MR. LOSTUTTER: There.

23 CHAIRPERSON SLASH: Okay.

1 MR. LOSTUTTER: He's back.

2 CHAIRPERSON SLASH: You may begin.

3 MS. NORMAN: Yes.

4 So, I think that the nature of the
5 investigation is oversimplified in
6 Mr. Fils-Aime's characterization of the events.
7 The investigation started with several employees
8 who also told him that they were offended by his
9 rhetoric. When that percolated up to us, of
10 course, we investigated it.

11 Mr. Fils-Aime told us initially that he
12 did not make the comments, and then he had later
13 confessed to the fact that he had made the
14 comments and that people were offended by them,
15 and that's just not something we tolerate in our
16 workplace. And so, as a result, he was
17 terminated.

18 And I think that that is really the basis
19 of what the adverse action is. I don't think
20 lack of overtime can be said to be a sufficient
21 adverse action as far as his claim of retaliation
22 under federal or state law. But I think that the
23 real adverse action determination was the result

1 of a legitimate business need, which is us not
2 allowing discriminatory behavior, conduct or the
3 like in our workplace, which he admitted to
4 espousing to several employees.

5 And I will yield the balance of my time to
6 Laura Molling, our HR representative, as she
7 would like to say something.

8 MS. MOLLING: I'd just like to say
9 the reason for no more overtime at the time was
10 due to -- was essentially due to performance
11 issues and the fact that we were no longer
12 offering overtime for trainees. And I'd just
13 concur that we -- while unfortunate, you know, we
14 did have to part ways due to the discriminatory
15 behavior that Marckennedy engaged in with -- in
16 the conversations that he had with three
17 different separate employees.

18 That's all I have.

19 CHAIRPERSON SLASH: Does that
20 conclude your time? You have 50 seconds
21 remaining. I don't want to cut you off unless
22 you're finished.

23 (No response.)

1 CHAIRPERSON SLASH: Okay.

2 Okay. Mr. Fils-Aime, you are -- you have
3 two minutes for a response. Do you have a good
4 connection where you are at this time?

5 MR. FILS-AIME: Yes.

6 CHAIRPERSON SLASH: Okay.

7 MR. FILS-AIME: I would like to
8 respond. I understand what the lawyer was
9 saying, but she was not there when everything
10 was -- transpired. I just think she's defending
11 her client. However, I was brought into the
12 office to speak to Laura concerning the
13 discriminatory retaliation they did on me.
14 Basically Ms. Laura was just trying to pick my
15 mind to see what I knew about Ku Klux Klan.

16 So, I told Ms. Laura that I only heard
17 what was said on TV, and I never said that I
18 supported the Ku Klan Klux [sic]. I just said I
19 respected their bond, that they were able to form
20 a bond to sustain themselves, and that's what I
21 said.

22 That's what I said when I came to the
23 unemployment, and the judge overturned, you know,

1 the complaint from Covanta, because like they
2 tried saying that I'm saying something different,
3 when in reality, I got the letter they sent to
4 unemployment, and none of these explanations were
5 present on those letters.

6 That's why the judge overturned it,
7 because we were having a conversation. They
8 brought it up. I don't know if I was -- if it
9 was a plot for them to instigate it, but I gave
10 my opinion. There was not any time where I said
11 I support the action of the Ku Klan Klux.

12 I'm Asian. I am a great-great-grandson of
13 great, great, great warriors who fought against
14 the idea of slavery, you know, so there's no way
15 in the world I can support a movement that
16 suppressed black people. So, they tried to turn
17 that against me, because I said I support their
18 bond. Anybody can support a bond. I played
19 football. We support the bond of other teams.
20 They were our rival. We had to shake their
21 hands.

22 CHAIRPERSON SLASH: Thank you.

23 MR. FILS-AIME: That's why I said --

1 CHAIRPERSON SLASH: That concludes
2 your time.

3 MR. FILS-AIME: -- they -- thank you.

4 CHAIRPERSON SLASH: You have two
5 minutes to respond.

6 MS. NORMAN: Yes.

7 Just briefly, I would say that saying to
8 separate employees that you support the bond of a
9 hate group, a nationally recognized hate group,
10 is -- and that those employees complained
11 individually to our company and said to us that
12 they told him -- and I understand this because --
13 I mean I was not there, but I did read the
14 investigative report, and all of those employees
15 made written complaints, so I was able to see
16 that they asked Mr. -- the Complainant to stop,
17 and he did not, to the point that they felt that
18 they needed to come to us.

19 So, I think that those facts -- maybe
20 there was a misunderstanding about what the
21 Complainant felt he was espousing versus how that
22 was actually received, but in any event, the --
23 let me just get the quote -- sustained bond,

1 support for the -- a sustained bond of a hate
2 group is something that is not tolerable in our
3 workplace.

4 That's it. Thank you.

5 CHAIRPERSON SLASH: Thank you.

6 With that, that concludes the oral
7 argument. Commissioners, is there -- are there
8 any questions?

9 (No response.)

10 CHAIRPERSON SLASH: Okay.

11 Comm. Tolliver, this was assigned to you.

12 COMM. TOLLIVER: Thank you.

13 I recommend we uphold the Commission's
14 finding of no probable cause under the Indiana
15 Civil Rights Law.

16 CHAIRPERSON SLASH: Is there a
17 motion?

18 VICE-CHAIR RAMOS: So moved.

19 CHAIRPERSON SLASH: Is there a
20 second?

21 COMM. SILBERBERG: Second.

22 CHAIRPERSON SLASH: Thank you.

23 MR. LOSTUTTER: We will call the

1 roll.

2 Comm. Jackson?

3 COMM. JACKSON: Aye.

4 MR. LOSTUTTER: Comm. Harrington?

5 COMM. HARRINGTON: Aye.

6 MR. LOSTUTTER: Comm. Silberberg?

7 COMM. SILBERBERG: Aye.

8 MR. LOSTUTTER: Comm. Tolliver?

9 COMM. TOLLIVER: Aye.

10 MR. LOSTUTTER: Vice-Chair Ramos?

11 VICE-CHAIR RAMOS: Aye.

12 MR. LOSTUTTER: Chair Slash?

13 CHAIRPERSON SLASH: Aye.

14 MR. LOSTUTTER: The ayes have it, six

15 to zero.

16 CHAIRPERSON SLASH: Thank you.

17 And thank you so much for your time.

18 The next case of Constance Kalb versus AAM

19 Professional Services, Vandalia by Del Web

20 Homeowners' Association, Inc. & Associated Asset

21 Management, LLC, Case HOha23110913. This case

22 was assigned to Comm. Harrington.

23 Do you have a recommendation?

1 COMM. HARRINGTON: Yes. There were
2 actually two issues, and they were both from the
3 Indiana Fair Housing Act and under the Indiana
4 Civil Rights Law. So, on the first issue, I
5 recommend that we uphold the Executive Director's
6 finding of no reasonable cause and no probable
7 cause of unlawful discrimination.

8 CHAIRPERSON SLASH: Thank you.

9 Do we do the two count -- do them
10 separately?

11 MR. FLEISCHHACKER: Do them both
12 together.

13 CHAIRPERSON SLASH: Do them together;
14 okay.

15 COMM. HARRINGTON: The same
16 recommendation on the second, and on that one, it
17 was, again, under the Indiana Fair Housing Act
18 and under the Indiana Civil Rights Law. So, I
19 was recommending that they uphold the no
20 reasonable cause and no probable cause.

21 CHAIRPERSON SLASH: Thank you.

22 Is there a motion?

23 VICE-CHAIR RAMOS: So moved.

1 CHAIRPERSON SLASH: Is there a
2 second?

3 COMM. TOLLIVER: Second.

4 CHAIRPERSON SLASH: Thank you.

5 MR. LOSTUTTER: We will call the
6 roll.

7 Comm. Jackson?

8 (No response.)

9 CHAIRPERSON SLASH: Comm. Jackson,
10 we're calling a vote on the -- on upholding both
11 the first and second issues on this case.

12 (No response.)

13 CHAIRPERSON SLASH: If you're
14 speaking, we can't hear you. We'll call -- we'll
15 continue the roll, and then we'll come back.

16 MR. LOSTUTTER: Comm. Harrington?

17 COMM. HARRINGTON: Aye.

18 MR. LOSTUTTER: Comm. Silberberg?

19 COMM. SILBERBERG: Aye.

20 MR. LOSTUTTER: Comm. Tolliver?

21 COMM. TOLLIVER: Aye.

22 MR. LOSTUTTER: Vice-Chair Ramos?

23 VICE-CHAIR RAMOS: Aye.

1 MR. LOSTUTTER: Chair Slash?

2 CHAIRPERSON SLASH: Aye.

3 MR. LOSTUTTER: Comm. Jackson?

4 (No response.)

5 CHAIRPERSON SLASH: Comm. Jackson,

6 was that an "Aye"? A "Yes"? I couldn't

7 necessarily tell. You may also --

8 COMM. JACKSON: Yes.

9 COMM. HARRINGTON: He said, "Yes."

10 CHAIRPERSON SLASH: Okay. Thank you.

11 MR. LOSTUTTER: The ayes have it, six

12 to nothing.

13 CHAIRPERSON SLASH: The next case,

14 case of Melvin Lipscomb versus Meijer,

15 Case PAr23040381. This is an oral argument that

16 was continued from last month. The case was

17 assigned to Comm. Tolliver. And I believe we

18 only have the Complainant present, and --

19 MR. LOSTUTTER: That's correct.

20 CHAIRPERSON SLASH: -- we do not have

21 representation from the Respondent?

22 MR. LOSTUTTER: No.

23 CHAIRPERSON SLASH: And so, with that

1 said, we can take about five minutes if you have
2 anything additional you would like to share.

3 MR. LIPSCOMB: Well, I do. You guys
4 have to give me -- I think -- I don't know, I get
5 kind of confused. Coming up, I might have had
6 some kind of heat something, walked in front of a
7 car or something. So, if I sound a little
8 confused, forgive me, but I'm glad I have kind of
9 like copies of what I wanted to go over the last
10 time.

11 Oh, I did notice that the Board is
12 different. Is there any reason why?

13 CHAIRPERSON SLASH: The Commissioners
14 are different?

15 MR. LIPSCOMB: Yes.

16 CHAIRPERSON SLASH: Each month
17 different people choose to come in versus be
18 on-line, so they've been participating, just some
19 have been on --

20 MR. LIPSCOMB: So, the other ones
21 that were here, which could be biased to me, in a
22 sense, they're on-line --

23 CHAIRPERSON SLASH: Well, so,

1 Comm. Silberberg --

2 MR. LIPSCOMB: -- is that what you're
3 saying?

4 CHAIRPERSON SLASH: -- has been
5 present on-line, Comm. Harrington has been
6 present on-line. They're just present here
7 today.

8 MR. LIPSCOMB: And where are the
9 others?

10 CHAIRPERSON SLASH: So, Comm. Jackson
11 is on-line and Comm. Blackburn --

12 MR. LIPSCOMB: Of course, I --

13 CHAIRPERSON SLASH: -- is not present
14 today.

15 MR. LIPSCOMB: -- can't see him,
16 so --

17 COMM. TOLLIVER: You and I have been
18 here, too.

19 CHAIRPERSON SLASH: I was going to
20 say, the three of us have been here.

21 MR. LIPSCOMB: Yes, I know you have,
22 I know you three have.

23 CHAIRPERSON SLASH: You are down to

1 three minutes.

2 MR. LIPSCOMB: I just was
3 wondering -- huh?

4 CHAIRPERSON SLASH: You have three
5 minutes.

6 MR. LIPSCOMB: Three minutes?

7 CHAIRPERSON SLASH: Well, you had
8 five, but we're now down to three.

9 MR. LIPSCOMB: You're saying that was
10 two minutes that --

11 CHAIRPERSON SLASH: Yes.

12 MR. LIPSCOMB: -- I just asked that
13 question? Okay. Well, listen, I need to sit
14 down, if you don't mind.

15 CHAIRPERSON SLASH: That's okay.

16 MR. LIPSCOMB: Normally you would
17 like to stand up to address the body, but I don't
18 know, I think I had some kind of heat stroke
19 coming up from my car, because I got a little
20 confused as to even where the office was.

21 But I've got here what I wanted to bring
22 last time we were here, which is the Articles of
23 the Civil Rights and the IC Codes of the civil

1 rights enforcement and the Indiana Civil Rights
2 Law. The public policy, it is public policy that
3 the state provide -- or either I can just give
4 you all copies of this if I can't get through it.

5 CHAIRPERSON SLASH: Well, we can't
6 take any additional evidence. We are aware of
7 our own Civil Rights Law.

8 MR. LIPSCOMB: Okay.

9 CHAIRPERSON SLASH: I know that we
10 have continued your case, as we have handed over
11 additional video that, I believe, we were able to
12 help you with. Do you have anything pertaining
13 to any of that that you'd like to discuss?

14 MR. LIPSCOMB: Yes, because the video
15 itself, you guys -- in the letter that you guys
16 sent, they rated me as being belligerent, and
17 just like I recently heard one of your other
18 people that, I guess -- or Complainants -- saying
19 they rated me as a certain type of person, which
20 I know that I'm not, and the video, although I
21 could see the video, there was no audio to the
22 video.

23 And under this complaint -- I mean under

1 this Civil Rights Law over there, in Section 2,
2 it talks about what -- how a person is -- how a
3 person feels once they have been discriminated
4 against, and that speaks directly to what I'm
5 talking about and how I was made to feel.

6 In Section 1 it says any individual
7 charging on an individual's own behalf to have
8 been personally aggrieved by a discriminatory
9 practice, and a Director or a Deputy Director of
10 the Commission charging a discrimination practice
11 was committed against a person who felt
12 personally aggrieved.

13 Well, me being a bereavement pastor,
14 that's exactly what I felt when they accused me
15 of stealing, and I'm just going to speak here
16 from the heart, because I don't think I'm getting
17 my --

18 CHAIRPERSON SLASH: We are past time,
19 but I'll give you a few more moments.

20 MR. LIPSCOMB: -- I don't think I'm
21 getting my stuff in or saying what I want to say
22 in the order I want to say it.

23 Looking at the video, you could only see

1 down, and what they saw was from the head. What
2 they saw was a black man riding in a buggy, a
3 handicapped black man, who had asked the
4 attendant to assist me with putting my products
5 in a bag, that the bags had gotten stuck and
6 wouldn't come apart.

7 So, this was a bad judgment call on their
8 behalf, because all I was doing was, in the
9 buggy -- and if you saw the video, you can see
10 that nothing ever really happened that would
11 point to someone stealing. There was no hiding,
12 there was nothing that really happened that
13 points to I had done something wrong.

14 CHAIRPERSON SLASH: Okay.

15 MR. LIPSCOMB: And so, what I'm
16 saying is: All they saw from looking down at me,
17 like the video shows, was that a black man who
18 was handicapped in a cart, in a buggy, pulls up
19 to the counter and starts checking his items, and
20 then I tried -- attempted, because I used one
21 hand, attempted to pull the bag, like I normally
22 would, open to put the items in.

23 Well, I couldn't get the bag open, so I

1 moved to another bag -- bag station where I could
2 get the bags open, and asked the lady to help me.
3 She refused to help me at that point, and then
4 said, "Well, I'm going to need to see your
5 receipt, because we suspect you're stealing."

6 Well, that right there grieved me to the
7 core, and was I angry? Yes. But did I become
8 belligerent and all of these things they were
9 saying? No, I did not, because I don't have to
10 act that way. I know I hadn't done anything. I
11 had hundreds of dollars in my pocket, like I do
12 now.

13 CHAIRPERSON SLASH: And I'll have to
14 cut you off here. We have gone over by an
15 additional five minutes at this time, and the
16 Respondent is not present.

17 Do any Commissioners have --

18 MR. LIPSCOMB: Well, can I --

19 CHAIRPERSON SLASH: Go ahead.

20 MR. LIPSCOMB: -- can I come back,
21 then, and read what I really want to read here in
22 the order that I want to present it? I just
23 think I'm a little confused today, and it's

1 probably because of the heat of walking up here.
2 That's what I think, because --

3 CHAIRPERSON SLASH: Unfortunately --

4 MR. LIPSCOMB: -- I didn't put it in
5 my -- in other words, what I'm trying to say, in
6 short, is that they saw a black man in a buggy
7 that they suspected was doing something wrong,
8 and the only reason they suspected it is, like my
9 wife and her friend said that works at the
10 Meijer's in Fishers, she said, "It's mainly white
11 people that do the stealing, but no one suspects
12 them because they're white and they don't think
13 that they'll steal."

14 But she said -- they said -- and they've
15 been working there for years, that white people
16 steal liquor, cigarettes and everything
17 repeatedly, every week, the same ones, but no one
18 suspects them.

19 CHAIRPERSON SLASH: Thank you. We
20 appreciate you continuing to come in, we
21 appreciate you sticking with this case and for
22 coming in to share your side of the story and
23 additional commentary. Unfortunately we can't

1 take any additional evidence. You have shared
2 with us at length, and we appreciate you and your
3 time.

4 Comm. Tolliver, this case was assigned to
5 you. Do you have a recommendation?

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

9 CHAIRPERSON SLASH: Okay.

10 Is there a motion?

11 VICE-CHAIR RAMOS: So moved.

12 CHAIRPERSON SLASH: Is there a
13 second?

14 COMM. SILBERBERG: Second.

15 CHAIRPERSON SLASH: Okay.

16 MR. LOSTUTTER: We will call the
17 roll.

18 Comm. Jackson?

19 (No response.)

20 CHAIRPERSON SLASH: Comm. Jackson,
21 you are now unmuted on our end.

22 COMM. JACKSON: Aye.

23 CHAIRPERSON SLASH: Thank you.

1 MR. LOSTUTTER: Comm. Harrington?

2 COMM. HARRINGTON: Aye.

3 MR. LOSTUTTER: Comm. Silberberg?

4 COMM. SILBERBERG: Aye.

5 MR. LOSTUTTER: Comm. Tolliver?

6 COMM. TOLLIVER: Aye.

7 MR. LOSTUTTER: Vice-Chair Ramos?

8 VICE-CHAIR RAMOS: Aye.

9 MR. LOSTUTTER: Chair Slash?

10 CHAIRPERSON SLASH: Aye.

11 MR. LOSTUTTER: The ayes have it, six
12 to nothing.

13 CHAIRPERSON SLASH: Thank you.

14 MR. LIPSCOMB: Why are we voting?

15 CHAIRPERSON SLASH: So, at this time
16 your oral argument is complete, and we were -- we
17 were voting on the recommendation on the finding
18 for your case. If you have additional questions,
19 you can speak with our Clerk at the end of the
20 meeting.

21 MR. LIPSCOMB: What now? It's
22 over --

23 CHAIRPERSON SLASH: Uh-huh.

1 MR. LIPSCOMB: -- the meeting?

2 CHAIRPERSON SLASH: Okay. Well, the
3 meeting is not over yet. We still have quite a
4 bit of business to make it through.

5 And the next -- so, we're now moving to
6 New Business, and I'll appoint -- oh, we have --
7 I'll appoint them in the order that we are
8 seated. The case of Sarah Griesinger versus Paul
9 Marsh Insurance, Inc., Case EMse24010065,
10 Comm. Harrington.

11 The case of Cassandra Palmer versus
12 Community Health Network, Inc.,
13 Case EMha23010070, that case to Comm. Ramos, and
14 for the record, I will be recusing myself from
15 that one, as that is my employer.

16 The case of Kimberly Roberts versus Town
17 of Moores Hill, Lanny Dell, & Brian Monahan,
18 Case HOha24010045, I'll appoint that one to
19 myself.

20 The case of Joel Mardis versus Horizon
21 Land Management, LLC & Oak Meadow MHC, LLC,
22 Case HOha24020141, Comm. Tolliver.

23 And the last one, Detric Glenn versus

1 Sanjay, LLC d/b/a Hampton Inn & Suites of
2 Speedway, Case EMra23100763, Comm. Silberberg.

3 Okay. The next case, we have -- and this
4 will require a vote by all instead of normally
5 these just are an affirmation by myself. This is
6 the case of ICRC/Andrew Williams versus Sandy
7 Switzer. It's an unopposed motion to dismiss,
8 Case HOfs16111545. Complainant is respectfully
9 moving to dismiss the claims in this matter
10 before the Commission due to no record existing
11 showing it was transferred to OALP and due to
12 being unable to contact the Aggrieved Person
13 since December of 2019, nor receiving
14 communication from them in that same period of
15 time.

16 Is there a motion from the Commissioners?

17 COMM. HARRINGTON: So moved.

18 CHAIRPERSON SLASH: Thank you.

19 Is there a second?

20 COMM. TOLLIVER: Second.

21 CHAIRPERSON SLASH: Okay. Motion to
22 dismiss granted. Oh, sorry; you need to call the
23 roll.

1 MR. LOSTUTTER: We'll call the roll.
2 Comm. Jackson?
3 CHAIRPERSON SLASH: One more time.
4 COMM. JACKSON: Aye.
5 CHAIRPERSON SLASH: Thank you.
6 COMM. JACKSON: Aye.
7 MR. LOSTUTTER: Comm. Harrington?
8 COMM. HARRINGTON: Aye.
9 MR. LOSTUTTER: Comm. Silberberg?
10 COMM. SILBERBERG: Aye.
11 MR. LOSTUTTER: Comm. Tolliver?
12 COMM. TOLLIVER: Aye.
13 MR. LOSTUTTER: Vice-Chair Ramos?
14 VICE-CHAIR RAMOS: Aye.
15 MR. LOSTUTTER: Chair Slash?
16 CHAIRPERSON SLASH: Aye.
17 MR. LOSTUTTER: The ayes have it, six
18 to nothing.
19 CHAIRPERSON SLASH: Excuse me, sir.
20 Are you okay? Do you need any water or anything?
21 MR. LIPSCOMB: Yeah. Have you got
22 some?
23 CHAIRPERSON SLASH: We do have ice

1 water.

2 MR. LIPSCOMB: Yeah, I'd take some
3 water.

4 CHAIRPERSON SLASH: Okay.

5 We'll move along. These were the
6 following cases that were ALJ Decisions and
7 Orders. The first -- and these do require
8 affirmation?

9 MR. LOSTUTTER: Yes.

10 CHAIRPERSON SLASH: Okay. Thank you.

11 The case of Eric Harden versus John
12 Johnson, Case HOrt23090732.

13 On March 28th, 2024, ALJ LaKeshia Triggs
14 held a public hearing on the matter of the
15 probable cause finding on the Complainant's
16 retaliation case. Complainant appeared
17 personally, along with ICRC Staff Attorney,
18 Respondent did not appear. The ALJ subsequently
19 ruled the Default Order issued on March 8th,
20 2024, stating the allegations contained in the
21 Notice of Finding issued by the ICRC on
22 January 17th, 2024 are accepted as true.

23 As a result, the Respondent is to cease

1 and desist from unlawfully retaliating against
2 people because of a protected activity, with the
3 sum of \$11,175 awarded as compensatory damages
4 for the out-of-pocket expenses the Complainant
5 incurred because of the Respondent's actions.
6 The sum of \$50,00 is awarded to Complainant as
7 compensation for emotional distress. The
8 objection period in this matter has closed.

9 Is there a motion to affirm?

10 VICE-CHAIR RAMOS: So moved.

11 CHAIRPERSON SLASH: Is there a
12 second?

13 COMM. HARRINGTON: Second.

14 CHAIRPERSON SLASH: Thank you.

15 MR. LOSTUTTER: We will call the
16 roll.

17 Comm. Jackson?

18 COMM. JACKSON: Aye.

19 MR. LOSTUTTER: Comm. Harrington?

20 COMM. HARRINGTON: Aye.

21 MR. LOSTUTTER: Comm. Silberberg?

22 COMM. SILBERBERG: Aye.

23 MR. LOSTUTTER: Comm. Tolliver?

1 COMM. TOLLIVER: Aye.

2 MR. LOSTUTTER: Vice-Chair Ramos?

3 VICE-CHAIR RAMOS: Aye.

4 MR. LOSTUTTER: Chair Slash?

5 CHAIRPERSON SLASH: Aye.

6 MR. LOSTUTTER: The ayes have it, six
7 to nothing.

8 CHAIRPERSON SLASH: Thank you.

9 The next case, Amanda Schwartz versus
10 Vital [sic] Consult, MD, Case EMha23040329.

11 The Administrative Law Judge in this
12 matter has found the Respondent to be in default
13 and is awarded total damages of \$9,446.
14 Respondent is also ordered to cease and desist
15 from discriminating against people on the basis
16 of disability in the protected area of employment
17 and post and prominently display statements of
18 policies and practices to prohibit and discourage
19 the unlawful discriminatory treatment of
20 employees.

21 Within 30 days of the original -- of the
22 date of this order made final by the Indiana
23 Civil Rights Commission, the Respondent must

1 deliver to Complainant, Amanda Schwartz, a check
2 in the amount of \$9,446 and provide a copy to the
3 ICRC Director, Tracy Richardson. The objection
4 in -- the objection period in this matter has
5 closed.

6 Is there a motion to affirm?

7 COMM. SILBERBERG: So moved.

8 CHAIRPERSON SLASH: Thank you.

9 COMM. HARRINGTON: Second.

10 CHAIRPERSON SLASH: Thank you.

11 MR. LOSTUTTER: We will call the
12 roll.

13 Comm. Jackson?

14 COMM. JACKSON: Yes.

15 CHAIRPERSON SLASH: One more time.

16 COMM. JACKSON: Yes.

17 MR. FLEISCHHACKER: Yes.

18 CHAIRPERSON SLASH: Thank you.

19 MR. LOSTUTTER: Comm. Harrington?

20 COMM. HARRINGTON: Aye.

21 MR. LOSTUTTER: Comm. Silberberg?

22 COMM. SILBERBERG: Aye.

23 MR. LOSTUTTER: Comm. Tolliver?

1 COMM. TOLLIVER: Aye.

2 MR. LOSTUTTER: Vice-Chair Ramos?

3 VICE-CHAIR RAMOS: Aye.

4 MR. LOSTUTTER: Chair Slash?

5 CHAIRPERSON SLASH: Aye.

6 MR. LOSTUTTER: The ayes have it, six
7 to nothing.

8 CHAIRPERSON SLASH: Gerald Rowe
9 versus The Health and Hospital Corporation of
10 Marion County d/b/a Eskenazi Health,
11 Case PAha22010026.

12 The Administrative Law Judge in this
13 matter has determined that the Complainant's
14 Motion for Partial Summary Judgment as to
15 liability is denied, the Complainant's Motion to
16 Strike Evidence is denied, and that the
17 Respondent's Motion for Summary Judgment is
18 granted, with the Complaint -- with the complaint
19 of the Complainant being hereby dismissed with
20 prejudice. The objection period in this matter
21 has not closed and no decision on this matter is
22 due at this time.

23 We'll see this next month; correct?

1 MR. FLEISCHHACKER: We will, correct.

2 CHAIRPERSON SLASH: Okay. Thank you.

3 Now, moving on to cases that are
4 automatically confirmed -- decisions
5 automatically confirmed by the ALJ, Rachel
6 Campbell versus Franciscan Alliance d/b/a
7 Franciscan Health Crown, Case EMre22070538; the
8 next case, Alvina Casillas versus Doxim Inc.,
9 Case EMra23040345; the next case, Tina Koopman
10 versus Bell American Group, Case PAha22120744;
11 the next case, Gregory L. Wilson Sr., in his
12 official capacity as Executive Director of the
13 Indiana Civil Rights Commission versus Autumn
14 Breeze Apartments and Flaherty & Collins
15 Properties, Case HOra23060549; the next case,
16 Gregory L. Wilson Sr., in his official capacity
17 as Executive Director of the Indiana Civil Rights
18 Commission versus Kittle Property Group, Inc.,
19 Case HOra23060552. Okay. That concludes the New
20 Business.

21 Our next meeting date is July 15th. Can
22 Commissioners please check their calendars?

23 VICE-CHAIR RAMOS: I'm good.

1 CHAIRPERSON SLASH: I'm going to
2 follow my own lead and check my calendar. Our
3 Mondays seem to be working out way better for us.
4 Okay. The 15th is fine for me as well.

5 Comm. Jackson, are you available on
6 Monday, July 15th?

7 COMM. JACKSON: Yes.

8 CHAIRPERSON SLASH: Thank you.

9 Okay. With that, we'll keep that date and
10 keep moving. I do not see any elections or
11 trainings that we have here listed.

12 Does anyone have any announcements?

13 VICE-CHAIR RAMOS: I have a question.

14 CHAIRPERSON SLASH: Uh-huh.

15 VICE-CHAIR RAMOS: As we move into
16 the next phase of this whole process, is this
17 last portion, which is the ALJ Decisions
18 Automatically, is that more of the format that
19 we'll see as we move forward?

20 MR. FLEISCHHACKER: As far as those
21 cases where the ALJ is the final authority, yes.

22 CHAIRPERSON SLASH: So, the last two
23 sections will be more like that.

1 MR. FLEISCHHACKER: Well, yeah, but
2 they'll be modified. The cases that currently
3 exist in the administrative process, you'll still
4 have the ultimate authority status for those, so
5 to the extent that it's necessary, you'll still
6 be voting on some of those as you did today.
7 Otherwise, that would be just reading them into
8 the record, like you did those last ones.

9 CHAIRPERSON SLASH: Thank you.

10 And we don't have anyone registered for
11 public comment today?

12 (No response.)

13 CHAIRPERSON SLASH: Okay. With that
14 being said, it is 2:23 on Monday, June 17th.
15 This meeting is adjourned.

16 - - -
17 Thereupon, the proceedings of
18 June 17, 2024 were concluded
19 at 2:23 o'clock p.m.
20 - - -

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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, June 17, 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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