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BEFORE THE STATE OF INDIANA

CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF SEPTEMBER 16, 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,
September 16, 2024 at 1:06 o'clock p.m.

- - -

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1 APPEARANCES:

2 COMMISSION MEMBERS:

3 Adrienne L. Slash, Chairperson
4 Steven A. Ramos
5 Holli Harrington
6 James W. Jackson
7 Terry Tolliver

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

14 OTHER COMMISSION STAFF PRESENT:

15 Michael Lostutter
16 Christiana Afuwape
17 Yvette Kirchoff

18 ALSO PRESENT:

19 Bryant Marsh
20 Michael W. Padgett
21 John Garcia
22 Kris Kazmierczak
23 Justin G. Hazlett
24 Rebecca Kiel
25 Vincent Kroon
26 Cindy Armour
27 Therese Whitsett
28 Cindy Parrent
29 Brett Hession

- - -

1 1:06 o'clock p.m.
2 September 16, 2024

3 - - -

4 CHAIR SLASH: Well, we'll go ahead
5 and -- it's 1:07. We'll call this meeting of the
6 Indiana Civil Rights Commission to order. It
7 doesn't look like we have any Commissioners
8 on-line today, so we won't have to take roll call
9 after everything, but we'll begin -- we do have a
10 quorum; right?

11 MR. LOSTUTTER: (Shook head yes.)

12 CHAIR SLASH: But we'll start with
13 the announcement of the agenda.

14 MR. LOSTUTTER: All right. The
15 agenda for this month, we'll approve previous
16 meeting minutes; we'll then go over the ICRC
17 Director's Report; we have, in Old Business,
18 several appeals before the Commissioners, four of
19 which involve oral argument; we then -- as far as
20 New Business is concerned, we only have one new
21 case that will be assigned to a Commissioner; for
22 Other Motions, we'll go over pretty quick; for
23 the Review of ALJ Decisions and Orders, there's
only one that we'll actually have to take a vote

1 on; and then reading in of a couple of Decisions
2 Automatically Confirmed.

3 CHAIR SLASH: We have -- we have
4 someone on-line.

5 Say something. Were you intending for us
6 to hear you?

7 (No response.)

8 CHAIR SLASH: Okay.

9 MR. LOSTUTTER: That's it.

10 CHAIR SLASH: Okay. With that being
11 said, we'll go ahead and I'll begin the meeting
12 by calling for approval of the previous meeting
13 minutes.

14 VICE-CHAIR RAMOS: So moved.

15 COMM. HARRINGTON: Second.

16 CHAIR SLASH: I'll take the sec --
17 I'll take the motion by Vice-Chair Ramos and the
18 second by Comm. Harrington.

19 Can we mute everyone on-line for the time
20 being? Thank you.

21 MS. AFUWAPE: I don't mind resting.

22 MR. LOSTUTTER: Did you have
23 something to say, Christiana?

1 (No response.)

2 CHAIR SLASH: Okay. Very good.

3 Well, we will go ahead and we will begin
4 with the ICRC -- oh, wait, we didn't vote.

5 MR. LOSTUTTER: Correct.

6 CHAIR SLASH: We've got a motion and
7 a second.

8 MR. LOSTUTTER: All right.

9 CHAIR SLASH: Okay.

10 MR. LOSTUTTER: We'll go ahead.

11 Comm. Harrington?

12 COMM. HARRINGTON: Aye.

13 MR. LOSTUTTER: Comm. Jackson?

14 COMM. JACKSON: Aye.

15 MR. LOSTUTTER: Comm. Tolliver?

16 COMM. TOLLIVER: Aye.

17 MR. LOSTUTTER: Vice-Chair Ramos?

18 VICE-CHAIR RAMOS: Aye.

19 MR. LOSTUTTER: Chair Slash?

20 CHAIR SLASH: Aye. And since we
21 don't have anyone on-line, I think I can just
22 call for "All in favor?" All right. We'll look
23 forward to that and save us a little time today.

1 So, we'll begin with the ICRC Director's
2 Report.

3 MR. FLEISCHHACKER: Thank you, Chair
4 Slash.

5 We've got a very busy time going on right
6 now. The next two days, Tuesday and Wednesday,
7 we have our Annual Days of Service, where we've
8 got over 200 volunteers helping out with
9 beautification projects in the Watkins Park area
10 along Martin Luther King Jr. Drive. We're also
11 doing some work this year at the Charlie Wiggins
12 Pocket Park, if you go by there.

13 So, like I said, we've got over 200
14 volunteers that are coming out to assist, and a
15 lot of them are from other state agencies. A
16 couple of years ago, the Governor signed an
17 executive order permitting up to 15 hours or two
18 days of paid volunteer leave that state employees
19 can take advantage of, and we have quite a few
20 who are doing that. So, we're excited about
21 those two days.

22 We've got the Circle City Classic coming
23 up on September 28th, where we'll be

1 participating in the parade, have a presence
2 there, and then we have the game later on that
3 afternoon.

4 October 9th is our Civil Rights Awards
5 Dinner. If any of the Commission members are --
6 I think all of you have been provided with
7 information on that. If you are interested in
8 having guests, plus ones, whomever, attend with
9 you, please talk with our Internal Affairs folks,
10 and we have a discounted rate for the guests and
11 all of that kind of stuff of staff and Commission
12 members. So, just let them know, once you
13 register, that you have additional individuals
14 that you want to have attend.

15 And then last week we did a taping for the
16 VIVA Show with the Indiana Latino Expo, so that
17 should be -- we're not sure exactly which
18 Saturday it's going to air yet, but one of these
19 Saturdays here in the next couple of weeks it'll
20 be showing on Telemundo Indy, and it's on a
21 Saturday morning. So, we'll get that out to
22 everyone once we have a date and time for that
23 particular broadcast.

1 Some ongoing projects that we have going
2 on. For the EEOC, our contract with them, our
3 annual contract, is ending at the end of this
4 month, and then we'll be starting on our next
5 contract. As I've mentioned in prior meetings,
6 we have already met our contract with the EEOC
7 for this year, and we've actually exceeded it, so
8 we're -- we've got those cases going into next
9 year's contract.

10 They are transferring 185 cases to the
11 Commission from the EEOC. They're doing that
12 transfer -- starting that transfer this week, and
13 then those cases will be included on our contract
14 next year to increase the funds that we get from
15 them for case processing.

16 On the housing side of things, we just
17 finalized some MOU's with the Indiana Housing and
18 Community Development Authority to do some fair
19 housing testing on a number of their properties.
20 We'll be doing 111 tests on a number of
21 properties across the state, testing for
22 potential alleged discrimination in the areas of
23 race and disability. There may be sex as well.

1 So, we're doing that over the next several
2 quarters. Many of these properties -- or some of
3 these properties we've tested in the past, and
4 subsequent testing they've passed, so we're
5 hoping to continue to see that same trend. And
6 we'll be testing some new properties as well to
7 make sure that they're in compliance with fair
8 housing laws.

9 As far as metrics go, through the end of
10 August we've seen -- most of our numbers this
11 year are pretty comparable to where we were last
12 year at the same time. Our inquiries are up --
13 just up three percent, our complaints are up 13
14 percent. We -- at the end of August we had 789
15 complaints filed so far this year. We're on
16 track to be around 1,050 or so at the end of the
17 year if we stay on the same trajectory, which
18 will be the first time that we've crossed a
19 thousand formalized complaints in quite a while.

20 Closures are one percent, so where they
21 were last year. Our settlement relief is down a
22 little bit. We, through the end of August, had
23 obtained over \$470,000 worth of relief for

1 complainants through settlement efforts and
2 mediation efforts, down some from last year. We
3 were at 576 at the same point last year, but that
4 was due to a couple of larger settlements that we
5 had received earlier in that year.

6 Our litigation cases year over year were
7 from -- we were at 60 open cases last year at the
8 end of August. We are down to 31 open cases at
9 the end of August this year, and that's due to
10 our staff having closed quite a few. We've
11 closed 47 litigation cases this year already,
12 compared to 30 at the same time last year.

13 So, our staff on the operations side are
14 cruising. We've got a lot of work coming in, and
15 we have a lot of work going on, so they're doing
16 a great job of maintaining that flow and getting
17 things moving along, so --

18 VICE-CHAIR RAMOS: Question.

19 MR. FLEISCHHACKER: Yes.

20 VICE-CHAIR RAMOS: You've had this
21 new technology for at least 18 months, 24 months.
22 Have you done any data mining to see if there are
23 any trends or any demographic pieces that are

1 telltale?

2 MR. FLEISCHHACKER: We've not started
3 digging in like that. The phone system we've had
4 for a year and a half now, the CMS system. We've
5 been -- it's been upgraded over the last year and
6 a half, and we're continuing to make upgrades to
7 it as well.

8 And I think that's something that we'll
9 probably be doing over the next year, getting
10 into it a little bit more and seeing if we can do
11 a little bit more, you know, pinpoint data stuff,
12 seeing what regions are seeing more complaints
13 than others or what regions are we not getting
14 stuff from. You know, are there pockets that
15 we're not doing enough education or awareness in?

16 So, that's kind of the next phase that
17 we're going to utilizing these technologies for,
18 to kind of do some more data-driven work, now
19 that we're kind of getting a good flow going with
20 everything else that we have going on and kind of
21 expand that as we're able to.

22 VICE-CHAIR RAMOS: Thank you.

23 MR. FLEISCHHACKER: Yep.

1 CHAIR SLASH: Any other questions?

2 (No response.)

3 CHAIR SLASH: Okay. Thank you.

4 MR. FLEISCHHACKER: You're welcome.

5 CHAIR SLASH: It sounds like the
6 efficiency is up and the staff is able to move a
7 lot easier with the technology that they have at
8 their fingertips. So, thank you. And I'm glad
9 to hear about how many people you have signed up
10 for the Day of Service. That's great.

11 MR. FLEISCHHACKER: Yes.

12 CHAIR SLASH: Thank you.

13 Okay. We will move on and begin with our
14 Old Business. The first case, Sarah Griesinger
15 versus Paul Marsh Insurance, Inc.,
16 Case EMse24010065. That case was assigned to
17 Comm. Harrington, and we also have note that it
18 is here for oral argument.

19 Are both parties present?

20 MR. MARSH: I am. Bryant Marsh.

21 CHAIR SLASH: Thank you.

22 MR. LOSTUTTER: I do not believe that
23 Ms. Griesinger is present. I know she is not

1 here in person, and I do not believe that she is
2 one of the people who are up there on the board.

3 CHAIR SLASH: Okay.

4 With that being said, Comm. Harrington,
5 would you like to hear a statement from the
6 present party?

7 COMM. HARRINGTON: This one is
8 interesting, because the finding is that we have
9 no jurisdiction, so I'll look to -- regardless if
10 both parties were here, my understanding is
11 because of the jurisdiction, unless there is
12 something different there, there's nothing that
13 we would be able to do in this case. Am I
14 correct?

15 MR. LOSTUTTER: I mean we could hear
16 the oral argument, but ultimately --

17 CHAIR SLASH: Okay.

18 COMM. TOLLIVER: We can just confirm
19 that they have fewer --

20 MR. MARSH: If I could be --

21 COMM. TOLLIVER: -- than six
22 employees.

23 COMM. HARRINGTON: So, the question,

1 as far as the definition of "employer" means the
2 organization has less than six or more employees
3 within the State of Indiana; is that correct?

4 CHAIR SLASH: Uh-huh.

5 COMM. HARRINGTON: Well, I'm
6 asking --

7 VICE-CHAIR RAMOS: Mr. Marsh?

8 COMM. HARRINGTON: -- Mr. Marsh.

9 CHAIR SLASH: Mr. Marsh, is that
10 correct?

11 MR. MARSH: That's for me?

12 CHAIR SLASH: Yes.

13 MR. MARSH: Yeah.

14 COMM. HARRINGTON: And how many
15 employees do you actually have?

16 MR. MARSH: (Inaudible.)

17 MR. LOSTUTTER: You may have to speak
18 up just a little bit, sir. We're having trouble
19 hearing you.

20 MR. MARSH: I'm having trouble
21 hearing you guys, too. Can you hear me better
22 now?

23 CHAIR SLASH: Yes.

1 MR. LOSTUTTER: Yes.

2 CHAIR SLASH: Okay. I'll speak up.
3 When Sarah first started, we had an employee that
4 was transitioning out, so when Sarah was hired,
5 (inaudible) -- employed, it was going up. So,
6 when she was first hired we had -- it would have
7 been three of us, and then after that two weeks,
8 it was just Sarah and I. I think she's confused
9 (inaudible).

10 COMM. HARRINGTON: We're losing you.

11 MR. LOSTUTTER: You're cutting out
12 again, sir; sorry.

13 MR. MARSH: Oh, I'm sorry. So, yes,
14 there was never more than two or three.

15 CHAIR SLASH: There was never more
16 than two or three; is that what you said?

17 MR. MARSH: There was three when she
18 first got hired. There was a person that was
19 transitioning out.

20 CHAIR SLASH: And at the time of her
21 departure, how many?

22 MR. MARSH: Two.

23 COMM. HARRINGTON: Two.

1 CHAIR SLASH: Two; okay. Thank you.

2 COMM. HARRINGTON: Okay. So, based
3 on that, my recommendation is that this is
4 administratively dismissed due to the fact that
5 we have no jurisdiction over the case.

6 CHAIR SLASH: Thank you.

7 Is there a motion?

8 COMM. TOLLIVER: So moved.

9 CHAIR SLASH: Is there a second?

10 VICE-CHAIR RAMOS: Second.

11 CHAIR SLASH: Okay. Motion,
12 Comm. Tolliver; second, Vice-Chair Ramos. All in
13 favor?

14 (Commissioners responded, "Aye.")

15 CHAIR SLASH: Any opposed?

16 (No response.)

17 CHAIR SLASH: Okay. The ayes have
18 it. Thank you.

19 The next case, Yovanis Mejia Alvarez
20 versus Old Dominion Freight Line, Inc. That is
21 Case EMno23070604. That case was assigned to me.

22 Are both parties present for oral argument
23 today?

1 MR. PADGETT: I'm Mike Padgett. I'm
2 with Jackson Lewis. I'm present for Old
3 Dominion.

4 CHAIR SLASH: Okay.

5 Is the Complainant present?

6 MR. LOSTUTTER: I do not believe so.
7 I do not believe that she's on-line, and she is
8 not here with us.

9 CHAIR SLASH: Okay.

10 Would you like to share anything prior to
11 a decision?

12 MR. PADGETT: I'm happy to answer
13 any questions. I don't want to take up time
14 unnecessarily.

15 CHAIR SLASH: Okay.

16 MR. PADGETT: I feel it's a fairly
17 simple set of facts. The employee was -- it's a
18 trucking company. The employee was at a gas pump
19 at their location in South Bend, pumped some gas,
20 didn't take the nozzle out, drove off, and, you
21 know, it was an accident. Their policy requires
22 that all accidents be reported. The employee
23 failed to report the accident.

1 Their handbook policy says any time you
2 fail to report an accident, you will be
3 terminated. It's not suggested that you'll be
4 terminated. So, the charge is framed in terms of
5 other people, you know, had safety issues and
6 weren't terminated. Well, that's a different
7 issue. This is failure to report. And so, with
8 failure to report, the result is termination.

9 In terms of the allegation regarding
10 assignment of routes and so forth, that's done by
11 seniority. There are about 20 employees more
12 senior than the Complainant. There's no evidence
13 presented by the Complainant that, you know,
14 routes were assigned in any way discriminatory.

15 So, with that, I'll answer any questions.

16 CHAIR SLASH: Sure. Thank you.

17 And seeing as the Complainant is not
18 present, what we would have allowed is for -- and
19 for anyone who's here for their own oral
20 argument, five minutes from each of you, and then
21 an opportunity to respond, and an opportunity for
22 us to have questions. This case was assigned to
23 me. I do not have any questions, so I will make

1 my recommendation. My recommendation -- there
2 were --

3 COMM. JACKSON: I have a --

4 CHAIR SLASH: -- two issues.

5 COMM. JACKSON: -- quick question.

6 CHAIR SLASH: What?

7 COMM. JACKSON: You mentioned in the
8 policy book -- could you repeat the policy book
9 grounds for termination?

10 MR. PADGETT: Failure to report an
11 accident.

12 COMM. JACKSON: Did you see that in
13 the policy book?

14 CHAIR SLASH: Yes. All of that was
15 covered in the case.

16 COMM. JACKSON: Okay.

17 MR. PADGETT: Yeah, it was attached
18 to the position statement.

19 CHAIR SLASH: Any other questions?

20 (No response.)

21 CHAIR SLASH: Okay. My
22 recommendation is that we uphold the Deputy
23 Director's finding on both issues as no probable

1 cause under the Indiana Civil Rights Law.

2 Is there a motion?

3 COMM. TOLLIVER: So moved.

4 CHAIR SLASH: Is there a second.

5 COMM. JACKSON: Second.

6 CHAIR SLASH: Thank you. Motion,
7 Comm. Tolliver; second, Comm. Jackson. All in
8 favor?

9 (Commissioners responded, "Aye.")

10 CHAIR SLASH: Okay. Any opposed?

11 (No response.)

12 CHAIR SLASH: The ayes have it.

13 Okay. Thank you.

14 MR. PADGETT: Chair Slash, a quick
15 question: Am I free to leave at this time?

16 CHAIR SLASH: You are free to go.

17 Thank you for coming in today.

18 MR. PADGETT: Yeah. Thank you for
19 your time.

20 CHAIR SLASH: The next case is
21 Sarah E. Johnson versus Terre Haute Housing
22 Authority & Lockport Road Community. That's
23 Case HOfs2402112 [sic]. The case was assigned to

1 Comm. Jackson.

2 COMM. JACKSON: There were two issues
3 in this case. In both issues, I support the
4 Director's finding of no probable cause.

5 CHAIR SLASH: Thank you.

6 Is there a motion?

7 COMM. TOLLIVER: So moved.

8 VICE-CHAIR RAMOS: Second.

9 CHAIR SLASH: Is there a second? A
10 second. Motion, Comm. Tolliver; second,
11 Vice-Chair Ramos. All in favor?

12 (Commissioners responded, "Aye.")

13 CHAIR SLASH: Any opposed?

14 (No response.)

15 CHAIR SLASH: Okay. The ayes have
16 it.

17 The next case, Mary Kay & John Garcia
18 versus Lost Run Farm Community Association &
19 Armour Property Management, LLC,
20 Case HOno24010006. This case -- do we have both
21 parties present for oral argument?

22 Are you -- okay. We have one.

23 MR. HAZLETT: Yes.

1 CHAIR SLASH: Oh, okay. Thank you
2 very much. So, this case was assigned to
3 Vice-Chair Ramos. However, for your oral
4 argument, the way we will begin, we will hear
5 five minutes from the Complainant, five minutes
6 from the Respondent, then the Complainant will
7 have two minutes to respond, the Respondent will
8 have two minutes to respond. We will then have
9 any questions from Commissioners prior to making
10 a decision.

11 MR. FLEISCHHACKER: A quick point of
12 order. There are two Respondents on the case,
13 and I believe there are representatives from both
14 Respondents here --

15 CHAIR SLASH: Okay.

16 MR. FLEISCHHACKER: -- so, I believe
17 that each of them would like five minutes --

18 CHAIR SLASH: Okay.

19 MR. FLEISCHHACKER: -- to present
20 their case. So, I just wanted to --

21 CHAIR SLASH: Okay. Perfect.

22 COMM. TOLLIVER: And before we begin,
23 Mr. Hazlett and I used to work together. I do

1 not think that it's mandatory that I recuse, but
2 I'll certainly do so if anybody asks for it.

3 CHAIR SLASH: Thank you so much.

4 COMM. HARRINGTON: Same for me. I
5 worked with Mary Kay for years at Lilly, so I
6 don't know that it's necessary that I recuse
7 myself, but I just want to disclose.

8 CHAIR SLASH: Okay. Thank you very
9 much.

10 Any other -- any other announcements or
11 notices before we begin?

12 (No response.)

13 CHAIR SLASH: So, going back to our
14 original announcement, I'll make it very clear.
15 Both Respondents will have five minutes prior to
16 us coming back to the Complainant; okay?

17 (No response.)

18 CHAIR SLASH: Very well. We'll begin
19 with the Complainant. Let me get my five-minute
20 timer going here.

21 Okay. You may begin.

22 MR. GARCIA: Okay. As background, I
23 have an engineering degree from Purdue University

1 and an MBA from Stanford University, and I was a
2 former Zoning Board member for the Town of
3 Fishers. I currently work in a highly regulated
4 industry as a financial advisor.

5 My wife has retired from Eli Lilly and
6 served in numerous roles over her 28-year career,
7 including as Senior Director responsible for
8 auditing, manufacturing, processes, and ensuring
9 compliance with government standards. My wife
10 has a civil engineering degree from Purdue
11 University and served as HOA President of our
12 previous neighborhood.

13 It is unimaginable that two individuals
14 that are conditioned to follow rules, that spent
15 over 50,000 in design fees, would have deviated
16 in the construction of such a challenging project
17 when the home sits on a -- and drops off on
18 a 27-foot hill.

19 The Notice of Finding by the ICRC is full
20 of many errors and omissions of evidence. ICRC
21 found no cause, because ICRC supposedly had
22 evidence that shows that we deviated from the
23 construction plans from the first day of

1 construction. If that were the case, the
2 Inspector of the Town of Zionsville would have
3 shut down our project.

4 Almost 600,000 has been spent in legal
5 fees and expert witnesses, yet to date, the
6 Respondents have not produced that evidence, but
7 somehow ICRC claims to have that evidence and
8 made an erroneous conclusion. Now the
9 Respondents are using ICRC's erroneous conclusion
10 against us in a civil litigation that has been
11 taking place since October 2022. We are
12 requesting at a minimum that the Commission
13 retract the Notice of Finding.

14 In addition, the Respondents have used the
15 ICRC's findings to propagate a false narrative
16 and create a hostile environment. They have
17 spread rumors. They have gone into at least two
18 other neighborhoods and done the same thing,
19 where we have accused board members and neighbors
20 of discrimination because we just didn't want to
21 follow the rules. That is a hundred percent
22 false.

23 We recently started receiving text

1 messages from neighbors stating, quote, John
2 Garcia is a serial neighborhood rapist, end
3 quote. I run a highly successful financial
4 advisory business that generates millions of
5 dollars in revenue for Bank of America. ICRC's
6 Notice of Finding, if it goes uncorrected and
7 unchecked, continues to be used maliciously to
8 defame my reputation and career that I've spent
9 20 years to build.

10 Furthermore, we filed the original
11 complaint with HUD on January 29th, 2023, which
12 was almost an entire year before HUD transferred
13 our case to the Indiana Civil Rights Commission.
14 During that period, HUD conducted a preliminary
15 investigation of our complaints and concluded
16 there was sufficient information to start a
17 formal investigation. HUD decided to transition
18 our case to the ICRC to conduct a formal
19 investigation.

20 It was apparent from the beginning that
21 the ICRC investigator had limited interest in
22 conducting a thorough investigation. We don't
23 know if this was due to the complexity of the

1 case or that a civil case was pending. We were
2 certain that the investigator was only looking
3 for a way to find no cause, because no
4 inspectors, engineers, architects, witnesses or
5 neighbors were ever interviewed.

6 We were told numerous times that the
7 evidence we were providing couldn't be used.
8 Even critical evidence regarding when we informed
9 the Respondents of my wife's disability was
10 ignored. The investigators refused to use text
11 messages where the Respondents were mocking my
12 wife's disability and stated things like, quote,
13 They will probably install a bullshit fence in
14 back, claiming that with her disability, she
15 can't chase dogs, end quote. Clearly, the
16 Respondents were aware from the beginning of
17 construction that my wife had a disability, and
18 chose to mock her instead of engaging us in
19 construct -- in a discussion.

20 In addition, the Respondents referred to
21 me as "Gomez" in a derogatory manner. When the
22 investigator concluded that spell check caused
23 "Gomez" to appear instead of "Garcia," we

1 challenged that finding. That -- given that G is
2 the only common letter, it is impossible for
3 spell check to change Garcia to Gomez, yet the
4 investigator changed the final report to state
5 that the Respondents called me Gomez by accident.

6 That was a hundred percent false, because
7 "Gomez" was being used in a derogatory manner,
8 and the text thread proves they were laughing
9 about calling me Gomez in a reference to me
10 eating a Mexican burrito. If the investigator
11 had made an effort to acquire other e-mails and
12 text messages from the Respondents, the
13 investigator would have probably found that they
14 would regularly refer to me as "Gomez."

15 The investigator failed to discuss in the
16 Notice of Finding that Respondents sent us an
17 e-mail threatening to foreclose on our home.
18 Other text messages the Respondents sent to each
19 other included, "What wonderful additions to the
20 neighborhood," "I have very little sympathy for
21 them," and "We don't trust anything they
22 provide."

23 The Respondents were fully aware, once

1 they texted and they revoked the original
2 approved modification, that my wife had a
3 disability and that they would be violating our
4 rights under Fair Housing and ADA. When we
5 submitted our original plans for approval, we
6 were not required to disclose that my wife had a
7 disability or highlight any design features that
8 were incorporated to meet her disability.

9 The modification necessary to meet my
10 wife's disability was built into the plans that
11 got a hundred percent approved. Just like
12 someone that has a handicap ramp or elevators
13 designed in the home plans, they are not required
14 to disclose that they have a disability or the
15 rationale for the ramp or the elevator. Just
16 like someone that goes to rent an apartment, they
17 are not required to disclose their race,
18 disability, sexuality or religion.

19 In addition, just like certain Islamic
20 households design their homes to face certain
21 directions, they are not required to disclose
22 their religion when submitting those plans and
23 explaining why the house faces a certain

1 direction.

2 Our plans were approved, and we informed
3 the Respondents in July of 2021 that they would
4 be violating our rights by interfering with our
5 approved plans, and they chose to ignore us, and
6 they refused to meet and discuss the situation
7 any further.

8 The investigator concluded that --

9 CHAIR SLASH: You're at time.

10 MR. GARCIA: Okay.

11 CHAIR SLASH: Thank you very much.

12 MR. KAZMIERCZAK: I have a handout
13 that follows my outline. May I approach and give
14 it to each one of you, or --

15 CHAIR SLASH: I have to verify it
16 doesn't have any additional evidence that we
17 haven't seen before that's not a part of any of
18 the records we already have. All of it is part
19 of what we already have in the original file?

20 MR. KAZMIERCZAK: Let me double-check
21 that.

22 CHAIR SLASH: If not, you can just
23 hold it. And I believe, since we're all present,

1 we should be able to follow along versus how it
2 would be if we --

3 MR. KAZMIERCZAK: That -- whatever
4 you would like. Hang on. I think I can edit
5 this real quick.

6 Hey, will you put those up, please?

7 (Discussion off the record.)

8 MR. KAZMIERCZAK: Good afternoon. My
9 name is Kris Kazmierczak. I'm the lawyer for
10 Lost Run Farm Community Association, Inc. With
11 me is the President, long-term President, Vincent
12 Kroon; and Rebecca Kiel, she was an Architectural
13 Review Board member; and also, Cindy Armour,
14 who's separately represented, who is the property
15 manager.

16 I think it's important for everybody to
17 understand that this is a neighborhood of
18 about 19 lots, and out of those 19 lots, we have
19 on the board a representative from -- that's a
20 high-level auditor from E & Y, Ernst & Young; we
21 have Mr. Kroon, who is a CEO and owner of a
22 development business; Ms. Kiel, who is an R.N.,
23 who also has a construction background;

1 Dr. Kowlowitz, who is not present because he's in
2 Italy today, who is obviously a doctor, an
3 anesthesiologist, who was the first one to build
4 in this neighborhood; we have Ben Wheat, who is a
5 CEO of Indy Wholesale Direct; and we have
6 Dr. Ashlee Cave, who is a dentist. These are all
7 professionals in this neighborhood.

8 COMM. JACKSON: Can you also give us
9 the demographic breakdown of all of these folks?

10 MR. KAZMIERCZAK: We did. Thank you
11 for reminding me of that. That's right, it is
12 part of the record. This is a --

13 COMM. JACKSON: Can you repeat that,
14 what's in the record, or can you tell me?

15 MR. KAZMIERCZAK: Yeah, I can tell
16 you. Offhand I don't know it, but -- you mean as
17 far as what? How many African --

18 COMM. JACKSON: Black --

19 MR. KAZMIERCZAK: -- Americans?

20 COMM. JACKSON: -- white, yeah.

21 MR. KAZMIERCZAK: So, it's a very
22 diverse neighborhood. Mr. Kroon is an immigrant;
23 Ms. Kiel's household, her husband's Jewish,

1 they're a Jewish household; Dr. Kowlowitz is
2 Jewish; Derrick McKey is African-American; the
3 next-door neighbors to -- the Brittons -- to
4 Mr. Garcia are from Columbia, immigrants; we have
5 several owners who also have vacant lots that are
6 Middle Eastern.

7 CHAIR SLASH: We can pin the
8 demographic question till when we get to our
9 questions at the end. That's when I --

10 MR. KAZMIERCZAK: Thank you. I'm
11 sorry; can I have a few minutes back to -- yeah.

12 CHAIR SLASH: Yes, I'll give you one
13 minute back, because that's what it took.

14 MR. KAZMIERCZAK: That's fine. Thank
15 you very much.

16 I want the Commission, the Chair,
17 Vice-Chair Ramos, to understand that what's been
18 requested is a redo. It's not a reversal, it's
19 not a "We missed -- the investigator missed
20 something."

21 And I bring a unique perspective today,
22 because I've been -- over 20 years I've been
23 before the ICRC and the EEOC representing both

1 complainants and respondents, and I will say that
2 the Exec -- the Deputy Executive Director;
3 Shanequa Moore, the investigator; and her
4 superiors got it right.

5 They put a lot of time into this. Four
6 months of careful deliberation. No fact went
7 uncontested. She got interviews of every one
8 of the board members. She pushed me for facts.
9 She pushed me on their theories. We responded
10 with 400 pages of documents. And what this comes
11 down to: They got it right.

12 They did interviews, they put together --
13 the Executive Director put together detailed
14 findings in a way that I've not seen often come
15 out of the ICRC. They put a lot of effort into
16 this, and they just didn't give window dressing
17 to what the Garcias were saying.

18 Everything you heard today has played out
19 in court since October of 2022 in Boone County.
20 We have a matter pending up there over the
21 covenants, and they've also asserted a
22 discrimination claim, so Judge Kincaid is going
23 to hear those. We've heard all of this.

1 All of that information was presented to
2 Shanequa Moore. I know that she had supervisors
3 involved all of the way along, because they were
4 looking at this very carefully. So, I am very
5 comfortable with the outcome in this case, but
6 the important thing is here is that they're
7 asking for a reinvestigation because they didn't
8 trust the investigator or the process.

9 I think that's incorrect before this
10 Board. I think that the ICRC got it right, and
11 that we should let things stand as they will. We
12 still have the court case going on. What they
13 concluded -- and if you recall, Ms. Moore and the
14 ICRC were considering that unlawful
15 discrimination occurred, she and the ICRC
16 correctly found a dispute over covenants, and
17 that there was no whiff of discrimination.

18 I'm going to address the two things that
19 were mentioned. The text message happened in
20 July 2022, over -- regarding some other person's
21 property, and they said -- with a request for
22 something to happen, they said, "We have to do
23 this right, because we know we have this issue

1 pending with Mr. Garcia." The wrong name was
2 used, one time.

3 We've had two years of opportunity for
4 discovery in the other case. That's the only
5 text message that came up, and it was a year and
6 a half after. It has to be temporal proximity
7 connected at the time the decisions were made.
8 It wasn't.

9 And what's behind me is, you're going to
10 see a tree. This is the tree we've heard a bunch
11 of evidence about that was unhealthy, and that's
12 a couple of days before that tree was taken down.
13 This is a walnut tree. To give you perspective
14 of how big that tree was, there's the dump truck
15 dumping all of the grading that Ms. Moore also
16 made comments about in her findings. Her
17 findings are spot on. For somebody who doesn't
18 deal with this every day, day in and day out, she
19 took the time to figure it out and got it right.

20 One minute?

21 CHAIR SLASH: Yep.

22 MR. KAZMIERCZAK: Thank you.

23 The comment about the disability, this

1 fence, the fence was withdrawn. That evidence
2 is -- the request for the fence was withdrawn.
3 Just like when they asked to have this tree tore
4 down, the ARB said, "No," in their discretion.
5 They have complete discretion under these
6 covenants. They said "No." They put the tree
7 back in. They said "No" to the fence. They
8 withdrew the request for the fence. It's not an
9 issue here.

10 We have asked in our case whether or not
11 an accommodation was denied, and they have
12 answered, "No, no modification, no accommodation
13 was denied, because it was part of our approved
14 drawings." There are no comparators here. This
15 is important for everybody to understand. In
16 discrimination cases, you have to go, "Is
17 somebody being treated differently?" The Garcias
18 were the only ones --

19 CHAIR SLASH: You're at time.

20 MR. KAZMIERCZAK: Okay. I'll reserve
21 some time with my two minutes.

22 CHAIR SLASH: Thank you.

23 Can we hear from the second Respondent's

1 representation?

2 MR. HAZLETT: Yes.

3 COMM. TOLLIVER: Can I ask a question
4 before he proceeds? Do we have jurisdiction if
5 there's a pending case?

6 MR. FLEISCHHACKER: I know that if
7 it's filed federally we don't, but it's the
8 state, I think.

9 COMM. TOLLIVER: Okay.

10 CHAIR SLASH: Yes. Good question.

11 COMM. TOLLIVER: Thank you.

12 MR. HAZLETT: Would you prefer I
13 stand or sit or --

14 CHAIR SLASH: Present as you will.

15 MR. HAZLETT: Okay. I'll stand.

16 Thank you. Thank you, Commissioners.

17 Factually, I don't think I have really
18 anything that I need to add to the record. My
19 client, who -- incidentally, I represent Armour
20 Property Management, LLC. Armour Property
21 Management, LLC's principal, Cindy Armour, is
22 here today.

23 I don't have anything to add with respect

1 to the facts of this case. I think that the
2 Notice of Finding that the ICRC's investigation
3 team prepared was thorough. I'll join in the --
4 my Co-Respondent's comments that it was thorough,
5 it was complete, it addressed all of the issues
6 that we were aware of, and we think that the
7 investigation got it right here.

8 But I do think that I need to inform the
9 Board of a critical issue with respect to Armour
10 Property Management and its role in all of this.
11 Armour Property Management was exactly that. As
12 its name implies, it was a contracted property
13 management. It's a separate LLC from Lost Run
14 Farms.

15 And while we agree that the allegations
16 here in terms of discrimination, in terms of
17 discriminatory intent, in terms of discriminatory
18 effect are simply not true, even accepting as
19 true those allegations, Armour Property
20 Management had no role in any of the
21 decision-making process other than to convey
22 information from, on the one hand, the HOA, Lost
23 Run Farms, and on the other hand, John and Mary

1 Kay Garcia.

2 That conveyance of information went both
3 ways. Armour conveyed information from the board
4 to the Garcias and conveyed information from the
5 Garcias to the board. That was Armour Property
6 Management's contracted role. Armour Property
7 Management did not have any authority to make any
8 decision with respect to what was approved in
9 terms of the plans, with respect to what may have
10 been mandated in terms of compliance with any of
11 the Lost Run Farms covenants.

12 Armour Property Management made
13 observations, it conveyed those observations to
14 the HOA, to its board, and Armour Property
15 Management conveyed messages and communications
16 with respect to various issues here from the
17 Board to the Garcias, but Armour Property
18 Management did not make the final decisions.

19 And so, I think, in the context of all of
20 this, even if one were to find that the conduct
21 here occurred and that there was this
22 discriminatory effect or discriminatory intent,
23 which, again, we strongly assert did not happen,

1 but even for the sake of argument, if the
2 Commissioners were to find that that occurred,
3 Armour Property Management is not the entity that
4 was engaging in that conduct.

5 And I think one of the allegations here is
6 telling, and it's in the finding. I think it's
7 the third finding, or at least the finding on the
8 third issue, and this is the issue that involves
9 this alleged referral to the Garcias as "Gomez."
10 The communication that is at issue, Armour was
11 not in any way at any time even a party to that
12 communication. So, there's no way that Armour
13 could be liable or responsible for that
14 statement.

15 And I point the Commissioners to that
16 because I think it's essentially emblematic or
17 symptomatic, or it represents Armour's position
18 in all of this. Armour did not engage in this
19 conduct. Again, we would strongly assert that
20 the discriminatory effect, the discriminatory
21 intent, this conduct, did not occur. It's a
22 covenant dispute.

23 This is a very wealthy enclave up in

1 Zionsville. As I understand it, the division or
2 the development was established to maintain its
3 kind of bucolic, its esthetic, as it existed.
4 Before it became a development, it was a farm.
5 There are covenants in place to maintain those
6 esthetics, thus the importance of not cutting
7 down old growth, fully developed and healthy
8 walnut trees. That significantly adversely
9 affects the esthetic of this development. That's
10 what this is about. It's about the Garcias
11 violating those covenants.

12 And while this isn't the forum, obviously,
13 to determine whether those covenants were or were
14 not in fact violated, we understand that, that
15 issue is being actively litigated in Boone County
16 as we speak. But from Armour's perspective,
17 Armour wasn't even a party to this lawsuit, to
18 the Boone County lawsuit, until approximately a
19 year into that litigation, and that was the point
20 at which the Garcias filed their third-party
21 complaint that brought Armour into all of this,
22 and that was the point, subsequent to that, that
23 this complaint was filed.

1 Again, Armour, as far as it's concerned,
2 conveyed information and messages, it did not
3 engage in this conduct, and we believe that the
4 Notice of Findings here are correct.

5 Thank you.

6 CHAIR SLASH: Thank you.

7 Okay. You have two minutes to respond.

8 MR. GARCIA: I'd like to highlight
9 that the Respondents use false, misleading and
10 fraudulent information to make and propagate a
11 false narrative in both the civil litigation and
12 the ICRC investigation.

13 On October 21, 2022, as part of their
14 preliminary injunction, the Respondents filed an
15 arborist report which was fraudulent and serves
16 as the basis of the Respondents' entire claim
17 against us in the request for a preliminary
18 injunction to keep us from occupying our home.

19 The arborist's attorney is currently in
20 discussions with our attorney to avoid potential
21 perjury charges for their participation in
22 creating a false document that was submitted as
23 one of the Respondents' primary exhibits in the

1 civil lawsuit against us.

2 In addition, the Respondents and their
3 attorney provided the investigator or ICRC
4 fraudulent documents that contained a reference
5 to the same fraudulent arborist report. This
6 fraudulent document was backdated and serves as
7 the basis of the Respondents' entire defense
8 against our Fair Housing claim.

9 Their attorney knew at the time the
10 investigator was conducting the investigation
11 that the arborist report was fabricated by his
12 client, yet he allowed the investigator for ICRC
13 to complete their investigation and reach the
14 wrong conclusion based on fraudulent information.

15 Under Rule 3.33 of the Rules of
16 Professional Conduct, their attorney failed to
17 take remedial measures to correct all of the
18 false documents and other documents that
19 reference false, fraudulent documents in the
20 civil case.

21 That matter will be handled outside of
22 this Commission's hearing. However, we are
23 requesting that their attorney disclose to the

1 Commission today that in fact the arborist report
2 appears to have been fraudulently created, and
3 thus the information they provided the
4 investigator may be false. The story around this
5 tree is completely false. There's false
6 information that's been created and provided,
7 both in the civil case and in this case.

8 And the findings that were determined are
9 based on false, fraudulent information that has
10 been proven. The arborist has refused to be
11 deposed, and they are currently seeking
12 negotiation with the attorney involved to come
13 forward and claim that this case is completely
14 false. They created a narrative, they filed a
15 preliminary injunction to sue us, to keep us from
16 moving in, and they can't backdate their story,
17 and they show you a picture of a tree?

18 The facts are false, and if you have any
19 other questions, I'd be happy to respond.

20 CHAIR SLASH: Thank you.

21 Two minutes.

22 MR. KAZMIERCZAK: Yes.

23 Commissioners, I apologize for what you

1 just heard. I really do. A lot of what you
2 heard today is not -- was not before Shanequa
3 Moore, and their -- I don't know what he's
4 talking about, about this arborist. He's getting
5 ready to be deposed. That hasn't happened. The
6 report, I have no idea what he's talking about.
7 They haven't been able to articulate it.

8 They did tell Ms. Moore it was false. She
9 had the opportunity to look at the report and
10 find out if Mr. Steve Courchene, who is a 40-year
11 arborist, showed up at their property when that
12 tree was up and examined it. He said he did;
13 okay? We relied on it. We gave it to Ms. Moore.
14 It's pretty simple. This drawing was given to
15 Ms. Moore, and on it -- can I approach?

16 CHAIR SLASH: (Nodded head yes.)

17 MR. KAZMIERCZAK: She got full-size
18 drawings. It says right here, "Existing tree to
19 remain." That's the tree that was supposed to
20 remain. It's not there three or four days after
21 construction began. They were warned not to take
22 it down, as we said, "Please let us get an
23 arborist out there, you get your own arborist,

1 let's find out how healthy that tree is that
2 you've got a fence around, that you're guarding,"
3 and it came down.

4 That was the beginning. The deviation was
5 that these are contracts, along with the
6 covenants. And so, when Ms. Moore looked at this
7 and said, "This is a contract dispute that Judge
8 Kincaid should be resolving, and there's not
9 discrimination permeating through this." It was
10 the defense of discrimination, and we -- we're
11 not here to bash. We're not going to go through
12 and, you know, say, "Hey, we filed defamation
13 claims because we've been defamed."

14 There was a statement that went out when
15 the investigation started with the ICRC to the
16 neighborhood from the Garcias, by e-mail, telling
17 everybody that the ICRC has found that there was
18 reason to investigate this case. We all know
19 that there's an administrative step. As soon as
20 you file it, they take action if there's
21 jurisdiction. They've got to investigate every
22 four years.

23 CHAIR SLASH: That's time. Thank

1 you.

2 MR. KAZMIERCZAK: Yeah. Thank you.

3 MR. HAZLETT: Thank you.

4 Just maybe two points. There was a
5 reference to an injunction that was filed. My
6 client, Armour, was not a party to that, was not
7 even a party to the lawsuit when the injunction
8 was filed, so we can't even speak to that in
9 terms of the facts or basis of the decision that
10 was made going into the filing of that, you know,
11 petition or application for an injunction.

12 The second issue, in terms of the arborist
13 and the allegation that there is some fraudulent
14 report, that's just not true. I can tell you
15 that that arborist and that report was secured
16 out of a good-faith effort to determine whether
17 the tree at issue could stay or not.

18 Again, we're not here to resolve that
19 issue, but I will say that there is no attorney
20 in this room that represents any of these --
21 either of these Respondents who would produce any
22 kind of fraudulent or false document into the
23 Boone County Circuit Court -- or the Boone County

1 Court here. That's just patently false.

2 In terms of the deposition and the
3 allegation that that arborist was refusing to be
4 deposed, that deposition is currently being
5 rescheduled, or negotiations engaged in being
6 rescheduled, because the Respondents here
7 received two weeks' notice, or a week notice, I
8 don't recall what it was, but no more than two
9 weeks' notice that that deposition was to take
10 place.

11 And the Respondents here, certainly not
12 Armour and not Lost Run, we're not the ones that
13 canceled that deposition. That was done at
14 Plaintiff's counsel's -- or rather Petitioner's,
15 Mr. Garcia's counsel's instance, in order to
16 provide, as I understand it, that arborist to
17 retain counsel to represent him as he's being
18 deposed, given the allegations that have been
19 made.

20 So, this idea that somehow, you know, we
21 are acting nefariously or incorrectly in the
22 Boone County Court is just -- it's -- quite
23 frankly, it's nonsense. No attorney of record in

1 that matter would risk his or her license to
2 engage in those types of shenanigans. And if it
3 occurred, the proper venue to resolve that is the
4 Boone County Court, and again, that's not here.

5 Thank you.

6 CHAIR SLASH: Okay. Thank you.

7 Okay. That concludes our opportunity for
8 oral argument. Commissioners, we did have one
9 question that was asked during the original
10 statements. Do you have the demographics to
11 share.

12 MR. KAZMIERCZAK: I think these were
13 volunteered. Ms. Moore never asked for them. I
14 just know they can be helpful sometimes.

15 CHAIR SLASH: If they were not a part
16 of the original record, then --

17 MR. KAZMIERCZAK: They're in my
18 position statement.

19 CHAIR SLASH: Okay.

20 MR. KAZMIERCZAK: Yeah, they are. I
21 mean -- but --

22 (Discussion off the record.)

23 MR. KAZMIERCZAK: I -- okay. Let me

1 get this, but I think what's concerning is that
2 you just heard a lot of evidence that's not part
3 of her record that -- as you know from the bundle
4 that you get from the investigative report.

5 So, five of the 14 completed residences in
6 Lost Run, including the Garcias, are home to
7 ethnic or racial minorities, black and Hispanic.
8 And then we gave a statistic from Zionsville that
9 in the area, it's 87 percent of the population is
10 white. And then two out of the 14 homes are --
11 are four people that are first-generation
12 immigrants, including right next door to
13 Mr. Garcia, which are the photos that he shows to
14 say they were treated differently under the old
15 covenants. They're Hispanic, they're from
16 Colombia. And Mr. Kroon is an immigrant to the
17 United States.

18 Any further questions for me?

19 COMM. JACKSON: Thank you.

20 MR. GARCIA: Can I clarify one thing
21 on that? All of those people that he's referring
22 to moved in before this board took over. Ask
23 what the makeup of the board is. Ask what the

1 ethnic makeup of the board is. I mean Derrick
2 McKey's been living in the neighborhood way
3 before any of these people ever moved there. So,
4 these people moved in before. Ask them what --
5 the makeup of the board, and then I can tell you
6 what caused this case.

7 CHAIR SLASH: Thank you for sharing.
8 I'm not necessarily sure that we can add those
9 additional components in at this point --

10 MR. GARCIA: Okay.

11 CHAIR SLASH: -- but I appreciate you
12 sharing some additional commentary.

13 MR. GARCIA: Okay.

14 CHAIR SLASH: But we'll continue to
15 hear questions from Commissioners.

16 COMM. TOLLIVER: I don't know who to
17 direct this to, but is there a schedule of fines?

18 MR. KAZMIERCZAK: A schedule of
19 fines? Meaning if you don't do --

20 COMM. TOLLIVER: And they ask you to
21 pay, and why.

22 MR. KAZMIERCZAK: -- something,
23 then --

1 COMM. TOLLIVER: Maybe the question
2 is: How do they determine a fine?

3 MR. KAZMIERCZAK: They're really not
4 with regard to this, that's why the injunction
5 was sought. And yeah, to answer your question,
6 that's why the injunction was sought, to put
7 everybody at status quo. Again, not part of --
8 it's sort of the part of this, because it's part
9 of the record, but --

10 CHAIR SLASH: It's a good --

11 MR. KAZMIERCZAK: -- good question.

12 CHAIR SLASH: It's a good question.

13 MR. KAZMIERCZAK: No fines were
14 levied, though, with regard to --

15 MR. GARCIA: Just to add, there's
16 no -- there's nothing in the covenants that
17 allows them to revoke our plans because a tree is
18 or is not cut down, so what they did is outside
19 of what they're allowed to do legally, and I'd
20 just like to add that to the point.

21 CHAIR SLASH: Thank you. We have
22 four issues that were part of the record that we
23 are to make determinations and decisions on

1 today.

2 Yes.

3 MR. FLEISCHHACKER: Just to let you
4 know, Comm. Harrington had a question earlier
5 about a lien filed -- or a similar circumstance
6 being filed as part of the ongoing state
7 proceeding. An aggrieved person can file an
8 action in -- a civil action in court whether or
9 not a complaint has been filed and without regard
10 to the status of any complaint that's filed under
11 the Fair Housing Act. If it's filed in Federal
12 Court, that's when we have to shut down any
13 investigation and close it out. But somebody
14 could file in state court and have a parallel
15 proceeding on that.

16 COMM. HARRINGTON: I just know it's
17 court filed.

18 CHAIR SLASH: Any additional
19 questions before we hear from Vice-Chair Ramos?

20 COMM. HARRINGTON: Just one. There
21 were comments about texts, and I heard you make a
22 comment there was one text that was
23 discriminatory, or thought to be discriminatory,

1 because of the name, and then there was a comment
2 that there were multiple. In the actual
3 information that was provided, is there one -- do
4 we have evidence there's one or multiple?
5 Because that -- on the grounds of discrimination
6 is one of the points that is unclear based on
7 comments that were made.

8 MR. GARCIA: I have it right here.

9 COMM. HARRINGTON: Well, did you --

10 VICE-CHAIR RAMOS: I don't remember
11 seeing it in the documentation as well. Was that
12 submitted previously?

13 MR. GARCIA: It was submitted. This
14 was submitted. There's a series -- there's a
15 series of text messages where they refer to me as
16 "Gomez," and it's -- she states, the -- Rebecca
17 Kiel states, "You completely crack me up when you
18 refer to Garcia as Gomez." Next statement, "Just
19 call me Jill Biden." Jill Biden had just made a
20 statement in Texas referring to Mexicans as being
21 unique as breakfast burritos.

22 And there was a lot of offense in the
23 Hispanic community over those statements, that

1 they're making fun of me, they knew they were
2 calling me "Gomez," they click "Haha." This is
3 not calling Garcia "Gomez" by accident. This is
4 not -- this is a series of consecutive text
5 messages that I take complete offense to, and
6 anybody should take offense to.

7 And this -- and this insinuates that this
8 is what they referred to me in the past. So, the
9 fact that they weren't required to produce other
10 text messages and messages, they can't use like,
11 "This was a one-time deal." I mean these are
12 grown adults that sit on a board that are
13 referring to an individual when they're making a
14 decision over their house as "Gomez"?

15 CHAIR SLASH: I'm going to ask you to
16 discontinue at this time. Thank you for --

17 MR. GARCIA: Yeah.

18 CHAIR SLASH: -- sharing. I
19 understand that it's a very passionate response
20 that you have to share, and I appreciate you for
21 sharing. At this time, though, we are --

22 MR. KAZMIERCZAK: Can I respond to
23 that? Because that's not accurate. There's one

1 text message. One. One.

2 CHAIR SLASH: And the one text
3 message --

4 MR. KAZMIERCZAK: He has -- he has
5 concluded on his own, not being part of the
6 communication, what that text message was about.
7 That was from Dr. Kowlowitz to Rebecca Kiel, and
8 Dr. Kowlowitz, it's been explained a thousand
9 times before, as it was when Ms. Moore wanted to
10 ask about that and probed it. She probed this
11 deeply, and she judged the credibility of my
12 clients, and they said Dr. Kowlowitz gets
13 people's names wrong all the time.

14 That's what Ms. Kiel was responding to is
15 the fact that they worked together all of the
16 time and he screws people's names up. There's
17 only one text message. It happened a year after
18 all of this became an issue. That was July
19 of '22, this is July of '21, okay --

20 COMM. JACKSON: Question.

21 MR. KAZMIERCZAK: -- disconnected.

22 COMM. JACKSON: Question.

23 CHAIR SLASH: Question?

1 COMM. JACKSON: Yeah. What does
2 Gomez -- what's the significance of Gomez?

3 VICE-CHAIR RAMOS: The significance
4 is that --

5 COMM. JACKSON: This is my first
6 time -- first time hearing that.

7 VICE-CHAIR RAMOS: Yeah. It -- you
8 know, in this particular case, at least how it's
9 being received, it's a -- it's a --

10 COMM. JACKSON: A racial slur, or --

11 VICE-CHAIR RAMOS: -- it's basically
12 racial profiling, and that's how it's being
13 received, and be it accurate or not, that's the
14 perception, yeah. So, this is -- I've been doing
15 this for almost 19 years.

16 COMM. JACKSON: I just want to be
17 clear. So, is that something in America, when we
18 hear "Gomez," there's an understanding that's a
19 racial slur, or was this a singular incident?

20 VICE-CHAIR RAMOS: I -- I have heard
21 it, not directed at me, but I've heard from
22 others. It isn't necessarily Gomez, it could
23 be -- it could be lots of different things, but

1 it's still -- it could be perceived as profiling,
2 but again, I wasn't there. I can't respond to
3 that directly.

4 COMM. JACKSON: There was a text
5 message that was sent?

6 VICE-CHAIR RAMOS: But it could be an
7 accurate -- it could be --

8 CHAIR SLASH: I think it was one
9 incident in this part.

10 VICE-CHAIR RAMOS: -- a question of
11 whether it was intended or not, and that's the
12 question that's being --

13 COMM. TOLLIVER: Can I --

14 VICE-CHAIR RAMOS: -- received here.

15 COMM. TOLLIVER: Yeah, I'll pull it
16 up.

17 COMM. JACKSON: Is it okay for me to
18 see it?

19 CHAIR SLASH: Are you pulling it up?

20 COMM. TOLLIVER: Yeah.

21 CHAIR SLASH: Okay. I've been trying
22 to find it, too.

23 COMM. JACKSON: The reason why I ask,

1 when I was on the Police Merit Board -- it was
2 the governing body for the Police Department --
3 you can't just pass over these details, because
4 you can reason from details to a better
5 understanding of what might have happened. And
6 just because there's one text message doesn't
7 mean that there might have been racial
8 conversations among board members that may have
9 had some kind of impact on this particular issue.
10 So, I just wanted to --

11 Are you Rebecca?

12 MS. KIEL: Yes.

13 COMM. JACKSON: Okay.

14 MR. GARCIA: Ask her what's funny
15 about it. She clicked, "Haha."

16 COMM. JACKSON: Well --

17 MR. GARCIA: What is funny --

18 COMM. JACKSON: -- we're not -- we're
19 not in court. I just wanted to see --

20 MR. GARCIA: Right. I know, but like
21 it's not funny -- there's nothing funny about it
22 to me.

23 COMM. JACKSON: Yeah, I'm just

1 looking at the details.

2 MR. GARCIA: Right. This is a
3 complete exchange back and forth, and then
4 throwing in the reference to Jill Biden? Jill
5 Biden had just --

6 MR. KAZMIERCZAK: There's a lot of
7 extraneous --

8 CHAIR SLASH: I'm going to ask --

9 MR. KAZMIERCZAK: -- material today.

10 CHAIR SLASH: Right. At this time,
11 I'm going to ask that we discontinue any
12 additional conversation from either the
13 Complainant or the Respondent --

14 MR. KAZMIERCZAK: Thank you.

15 CHAIR SLASH: -- unless you are
16 directly asked a question by a Commissioner. I'm
17 going to give a brief moment for Comm. Jackson to
18 verify if he has an additional question prior to
19 us hearing from the Commissioner that was
20 assigned the case, which is Vice-Chair Ramos.

21 Do you have any additional questions?

22 COMM. JACKSON: Yeah. I'm just
23 really concerned about that. I mean I'm black,

1 and if the shoe was on the other foot, you
2 know, 87 percent white population in Zionsville,
3 and this gentleman and his wife are trying to
4 move in and build a house, if it was a clean case
5 where you don't have stuff like this, I mean I
6 wouldn't have any reservation, but my concern is
7 maybe there was some discrimination involved.

8 If you have board members who are saying
9 different things about the people who want to
10 move into the community, and just because there's
11 only one text message, people delete text
12 messages. This one just happened to get out, and
13 it's a very important piece of evidence, I think,
14 that could point to some other things that fueled
15 persons to block this family from being in the
16 neighborhood, possibly.

17 CHAIR SLASH: Thank you.

18 MR. KAZMIERCZAK: Sir, that happened
19 a year after all of the decisions were made.

20 CHAIR SLASH: Thank you.

21 MR. KAZMIERCZAK: I believe -- okay.

22 CHAIR SLASH: Thank you for sharing.

23 We are going to move to Vice-Chair Ramos,

1 and we will attempt to make an approach towards
2 how to move forward with this case.

3 VICE-CHAIR RAMOS: I'm -- I was
4 thinking earlier about this is probably one of
5 the most unusual cases that I've have reviewed in
6 my almost 19 years, because we have two highly
7 professional groups, and yet there's a clear
8 misunderstanding between the two. I -- my
9 recommendation would be to remand this back for
10 further investigation by the Indiana Civil Rights
11 Commission.

12 CHAIR SLASH: Is there a motion to
13 that point?

14 COMM. JACKSON: So moved.

15 COMM. TOLLIVER: Second.

16 CHAIR SLASH: Is there a second?
17 Okay. We have a motion by Comm. Jackson and a
18 second by Comm. Tolliver, and that motion is that
19 we remand it back for further investigation.

20 COMM. JACKSON: Do you have an
21 attorney?

22 MR. GARCIA: Yeah, I have an
23 attorney.

1 COMM. JACKSON: Why aren't they here?

2 MR. GARCIA: Because I'm fully
3 capable of doing this. I mean I'm confident that
4 I'm doing fine. I just decided to show up -- I
5 mean there's \$600,000 in this thing.

6 COMM. JACKSON: I would encourage you
7 to -- I would encourage you to use your attorney.
8 I mean that's your personal preference.

9 MR. GARCIA: What's that?

10 COMM. JACKSON: I would encourage you
11 to use --

12 MR. GARCIA: Yeah. I know. I get
13 you.

14 CHAIR SLASH: Okay. At this time,
15 we'll take a vote on the motion that's on the
16 floor. All in favor?

17 (Commissioners responded, "Aye.")

18 CHAIR SLASH: Any opposed?

19 (No response.)

20 CHAIR SLASH: Okay. We will remand
21 this back to the ICRC for further investigation.

22 MR. KAZMIERCZAK: As a point of
23 clarification, do we get to know what specific

1 points are going to be further investigated?
2 That's my understanding is that when it gets
3 remanded, it has to be specifically stated what
4 is going to be investigated.

5 VICE-CHAIR RAMOS: Right. So, there
6 are four issues that are on the table, and at
7 this point, I would recommend they all be
8 reviewed.

9 MR. HAZLETT: Can I ask a point of
10 clarification? There have been observations
11 today that we have two groups. We don't have two
12 groups, we have three groups. We have
13 homeowners, the Complainants -- may I step up?
14 We have homeowners who have alleged misconduct,
15 we have a homeowners association that is a
16 separately incorporated entity, legally
17 recognized as a separate and distinct entity
18 under the law, and then we have a separate
19 property management company that is a separate
20 and distinct entity. It's an LLC.

21 CHAIR SLASH: Are you asking us
22 something about the participation of the third
23 group?

1 MR. HAZLETT: Yeah, because there's
2 been the statement that we have two groups and we
3 need to refer to -- hand this back and have an
4 investigation, but I think if we -- I would
5 suggest that there should be clarification on
6 precisely -- is that remanding it back to some --

7 CHAIR SLASH: So, we'll add to the
8 note that we are remanding back for investigation
9 and specifically looking into all four issues,
10 but in addition, that the property management
11 group should be included. Is that what you're
12 requesting?

13 MR. HAZLETT: Yeah. Well, I think
14 that --

15 MR. FLEISCHHACKER: We'll look at
16 each Respondent's role in the issue and delineate
17 as needed.

18 MR. HAZLETT: Okay. All right.
19 Thank you.

20 CHAIR SLASH: Thank you.

21 MR. GARCIA: So, everybody's included
22 in that; correct?

23 MR. FLEISCHHACKER: Yes.

1 CHAIR SLASH: At this time, as a part
2 of the group.

3 MR. GARCIA: Thank you.

4 CHAIR SLASH: Thank you. We all have
5 put significant amounts of time into the issues
6 in this case. Fortunately, we're going to
7 continue on and see where else it goes.

8 You are free to go at this time. Any
9 questions can be directed towards our Clerk
10 following today's meeting.

11 MR. KAZMIERCZAK: Thank you.

12 CHAIR SLASH: Thank you.

13 The next case is Comonic Shorter versus
14 D & M Hospitality, Inc. D/B/A Baymont by Wyndham,
15 Case EMra23060578. That case was assigned to
16 Comm. Tolliver.

17 COMM. TOLLIVER: Thank you.

18 At this time, I recommend that we uphold
19 the Commission's finding on both issues of no
20 probable finding under Indiana Civil Rights Law.

21 CHAIR SLASH: Is there a motion?

22 VICE-CHAIR RAMOS: So moved.

23 CHAIR SLASH: Is there a second?

1 COMM. HARRINGTON: Second.

2 CHAIR SLASH: Okay. Motion,
3 Vice-Chair Ramos; second, Comm. Harrington. All
4 in favor?

5 (Commissioners responded, "Aye.")

6 CHAIR SLASH: Okay. Any opposed?

7 (No response.)

8 CHAIR SLASH: None opposed.

9 We'll move to the next one, William
10 Babineaux versus Olynger Management Corporation,
11 Case HOha23120943.

12 Comm. Harrington?

13 COMM. HARRINGTON: There are three
14 issues for this case, all for the Indiana Fair
15 Housing Act and for the Indiana Civil Rights Law,
16 and my recommendation is uphold the Executive
17 Director's recommendation on all three issues.

18 CHAIR SLASH: Thank you.

19 Is there a motion?

20 COMM. HARRINGTON: Of no probable
21 cause; I'm sorry.

22 CHAIR SLASH: Thank you.

23 Is there a motion?

1 COMM. TOLLIVER: So moved.

2 CHAIR SLASH: Is there a second?

3 COMM. JACKSON: Second.

4 CHAIR SLASH: Motion, Comm. Tolliver;
5 second, Comm. Jackson. All in favor?

6 (Commissioners responded, "Aye.")

7 CHAIR SLASH: Any opposed?

8 (No response.)

9 CHAIR SLASH: None opposed. Thank
10 you.

11 And the next one, a case that was
12 assigned to me, is Gabrielle R. Miller versus
13 Shweta Khanna & Gaurav Madaan. That's
14 Case HOha24040284. That case was assigned to me,
15 and this case is one that we need to
16 administratively dismiss; correct?

17 MR. FLEISCHHACKER: (Nodded yes.)

18 CHAIR SLASH: Okay. And I need a
19 motion for that; correct?

20 MR. FLEISCHHACKER: Yes, I'm sorry.
21 It's an appeal, so you still do.

22 VICE-CHAIR RAMOS: So moved.

23 CHAIR SLASH: Okay. Fantastic.

1 COMM. TOLLIVER: Second.

2 CHAIR SLASH: I have a motion by
3 Comm. Tolliver -- oh, Comm. Ramos -- and a
4 second --

5 COMM. TOLLIVER: Yes.

6 CHAIR SLASH: -- by Comm. Tolliver.
7 All in favor?

8 (Commissioners responded, "Aye.")

9 CHAIR SLASH: Any opposed?

10 (No response.)

11 CHAIR SLASH: Okay. Motion carries.

12 The next, Judith K. Williams versus
13 Southern Indiana Housing Community Development
14 Corporation, Case HOha24030155. The case was
15 assigned to Comm. Jackson.

16 COMM. JACKSON: Uphold the Director's
17 finding of no probable cause.

18 CHAIR SLASH: Thank you.

19 Is there a motion?

20 COMM. TOLLIVER: So moved.

21 CHAIR SLASH: Is there a second?

22 (No response.)

23 CHAIR SLASH: I'll second it myself.

1 Som moved by Comm. Tolliver; seconded by me. All
2 in favor?

3 (Commissioners responded, "Aye.")

4 CHAIR SLASH: Any opposed?

5 (No response.)

6 CHAIR SLASH: Okay. Motion carries.

7 So, next, Therese Whitsett versus Ground
8 Effects, LLC, Case EMra23050462. That case was
9 assigned to Vice-Chair Ramos, and I understand
10 that we have parties present for --

11 MR. LOSTUTTER: Yes.

12 CHAIR SLASH: -- oral argument. Do
13 we have both?

14 MR. LOSTUTTER: We have the
15 Complainant.

16 CHAIR SLASH: Okay.

17 MR. LOSTUTTER: And I believe we have
18 at least one representative for the Ground
19 Effects, that would be the Respondent.

20 MS. PARRENT: Yes. I'm on the phone.

21 CHAIR SLASH: Okay. Thank you very
22 much, and thank you for your patience through the
23 previous oral arguments and the opening portions

1 of this meeting. As before, I don't know if you
2 heard my instruction, but we'll have five minutes
3 from the Complainant, then five minutes from the
4 Respondent, followed by two minutes to respond
5 from the Complainant and two minutes from the
6 Respondent to respond, and then you will have
7 questions from the Commissioners.

8 At this time, is the Complainant ready to
9 begin?

10 MS. WHITSETT: Yes.

11 CHAIR SLASH: Okay. You may begin.

12 MS. WHITSETT: Yes. My name is
13 Therese Whitsett, and I was working at Ground
14 Effects for almost five years. I started
15 in 2018. I was on the production floor. I was
16 upgraded in 2019 to Team Lead, which I was
17 considered one of the best Team Leads until
18 like 2021.

19 I had to get a family medical leave due to
20 my medical issue. I got a little older, and I
21 was using family medical leave, and I also had a
22 paper stating that I could sit periodically
23 during my shift due to my medical leave, and

1 that's what I was terminated for, for sitting in
2 the break room.

3 And also, I was terminated -- I kept
4 getting wrote up after I got my family medical
5 leave and was trying to get forced out of the
6 position. I won my unemployment. My
7 unemployment -- I didn't understand why I was
8 getting fired, because they never talked to me
9 about when to sit, how to sit, and also, I was,
10 like I said, one of the better Team Leads.

11 I was older than all of our Team Leads. I
12 had more seniority. They had two other younger
13 Team Leads, which was Powell and Mai Sung, they
14 was Asians, and most all of the production floor
15 were like Asian workers. And so, they got -- one
16 was just a temporary stand-in for Vonna Bates.
17 She was also a Team Lead. She was on medical
18 leave.

19 When Vonna was on medical leave, they said
20 they wanted she, Powell, standing in for Vonna,
21 but they end up keeping Powell and firing me,
22 because they had to get rid of somebody, because
23 they wanted the -- more of the Asian Team Leads,

1 the younger Team Leads, because there's more
2 production -- Asians on the floor, and I couldn't
3 speak their language.

4 Not only that, I was also retaliated
5 against, because when Vonna did make it back to
6 work, one weekend prior to me getting fired,
7 they -- the two supervisors got on the radio to
8 call in Vonna on the radio and let her know that
9 we needed to be at work on that weekend, and I
10 said I'd try to make it, and Vonna said that she
11 would try to make it, and we was told that if we
12 didn't make it, there would be some consequences
13 behind it.

14 So, at that weekend, right before
15 Valentine's, that weekend, 11th, 12th of
16 February 2023, I didn't make it to work. I went
17 back to work February 14th. I was told then I
18 was terminated. So, I did file an appeal with
19 EEOC -- with ICRC. ICRC took over, and I was
20 told to go and complain, and I did, because I
21 feel like I was fairly untreated.

22 Like I said, I was one of the longer Team
23 Leads. I was forced out, I was -- then I -- and

1 the reason why I asked for an appeal, because I
2 was falsely -- they said that I kept getting
3 wrote up over and over again. Yes, they was
4 trying to write me up for several things that I
5 wouldn't sign for, because I knew they was trying
6 to force me out of the company because of my
7 medical leave.

8 They did not want me there if I was not
9 able to be there as much as the other Team Leads.
10 It's because I was older and I'm an
11 African-American, and like I said, it was more of
12 Asian production workers on second shift, and the
13 other two younger Asians was more needed to be in
14 the company.

15 So, yes, I feel like I was discriminated
16 against, I was retaliated against, because after
17 I got wrote up, the Unemployment Office lady told
18 me that they wrote me up Wednesday, the week
19 before -- I was wrote up Wednesday, February -- I
20 don't know the date, but I know it was before --
21 the 10th is when they got on the radio to tell us
22 we had to be to work on the weekend.

23 I was already wrote up. So, she couldn't

1 understand why, if they wrote me up on a
2 Wednesday, why didn't they fire me until after
3 that weekend, when they tell us -- when they said
4 there was going to be consequences toward me.

5 And they also changed the handbook. The
6 handbook had in there saying that my rights were
7 getting ready to come off within a year, the 2022
8 year that I worked there. They tried to tell the
9 unemployment people that the handbook said that
10 if I mess up any time between the write-ups, that
11 they wasn't coming off, and that wasn't true,
12 which they did. It's in the handbook in 2023,
13 and tried to use that against me.

14 When she found out, it's in those
15 paperworks, they never did, because she released
16 my money, and I lived off of that until my
17 unemployment, until I had to get my 401k out of
18 Ground Effects to survive off of.

19 You know, I understand that they do want
20 younger workers and more Asian workers because
21 there's more Asian people there, but I was
22 treated unfairly. I had anxiety at night since
23 they -- I knew they was trying to force me out,

1 but the write-ups I was getting was unfair. The
2 other Team Leads was not getting write-ups. I
3 was sitting in the break room with two other Team
4 Leads. They was told that they had to get verbal
5 warnings just to cover up, make it look good,
6 because if they didn't do that, then -- you know,
7 they knew I was going to be --

8 CHAIR SLASH: You're at time.

9 MS. WHITSETT: -- going to -- I'm out
10 of time?

11 CHAIR SLASH: Yes. Thank you.

12 We have five minutes for the Respondent.

13 MS. PARRENT: Good afternoon. Cindy
14 Parrent, representing Ground Effects.

15 Ms. Whitsett was hired 7-16 of '18. She
16 was promoted to Team Lead on 6-17 of '19.
17 Ms. Whitsett received very good performance
18 reviews. The only issue she had was a lack of
19 desire to learn all of the positions, which were
20 required within the Team Lead position.

21 Ms. Whitsett was terminated due to
22 reaching the last step of the disciplinary
23 procedure. Ms. Whitsett struggled with

1 attendance, was written up on 6-2 of '21. On
2 10-13 of '21, Ms. Whitsett received her second
3 corrective action, which was continued failure to
4 cover her jewelry, which was a requirement of the
5 customers for inside ventilation purposes.

6 On 3-5 of '22, she received her third
7 corrective action, loafing in a vehicle.

8 Ms. Whitsett was a Team Lead. She was required
9 to report to the facility 15 minutes before the
10 production employees. Ms. Whitsett punched in
11 and went and sat in her car until the perform --
12 or until the employees came in, so she was on the
13 clock and sitting in her car for the 15 minutes
14 prior to the production schedule.

15 Ms. Whitsett was also written up for
16 pre-filling out the DPT-12 which is the final
17 inspection form on the vehicles that we process.
18 On 4-21 of '22, Ms. Whitsett was written up for,
19 again, an issue with the GP-12 due to failure to
20 review a traveler, which is a document that
21 follows the vehicles throughout the process. She
22 failed to review that and completed the GP-12
23 final inspection without noting an accessory that

1 was to be placed on the vehicle.

2 On 2-9 of '23, Ms. Whitsett was found
3 loafing in the break room, along with two other
4 Leads that did receive corrective actions.
5 Ms. Whitsett received her final termination for
6 the corrective action because she was at the last
7 step of progressive disciplinary process. The
8 other Leads did not receive the termination
9 because they were not at the last step.

10 During Ms. Whitsett's tenure with Ground
11 Effects, there were seven African-American Leads,
12 there were five Caucasian Leads, two Asian Leads,
13 one which was two or more races, and one that was
14 Native American -- or Native Hawaiian, excuse me.

15 There were six Leads that were terminated
16 between 2020 and 2023. There were two that
17 were two or more races, one that was Native
18 American -- or Hawaiian; sorry -- two that were
19 white, and one that was black, and that was
20 Ms. Whitsett. She was the only black or
21 African-American Team Lead that was terminated at
22 that time.

23 The medical slip that Ms. Whitsett was

1 referring to as sitting periodically was
2 dated 11-15 of '21. It stated that she could sit
3 periodically, but there was no end date to that
4 statement, and sitting periodically could also
5 include her breaks. It did not mean that she
6 needed extended breaks.

7 That was clarified on her FMLA paperwork
8 that was not filed until 11-14 of '22. We did
9 clarify with Unum, who is the third-party vendor
10 that we use for our FMLA, and it says that the --
11 Unum Lead Specialist -- and confirmed that there
12 was no extended breaks within her FMLA
13 requirement.

14 Ms. Whitsett was terminated due to
15 reaching the last step of the disciplinary
16 process. There was no other reason associated
17 for her termination.

18 CHAIR SLASH: Does that conclude your
19 time?

20 MS. PARRENT: That's all I have.

21 CHAIR SLASH: Thank you.

22 MS. PARRENT: Pardon me?

23 CHAIR SLASH: Yes. Does that

1 conclude your time?

2 MS. PARRENT: That's it, yes.

3 CHAIR SLASH: Okay. Thank you.

4 Does the Complainant -- are you prepared
5 to respond? You have two minutes.

6 MS. WHITSETT: Yes, I'm ready to
7 respond, yes.

8 I did -- like she said, I have paperwork
9 from my doctor saying that I could sit
10 periodically. They never asked me why I was
11 sitting. I'm a Team Lead, so I told them once
12 you sit off the floor -- you cannot sit out on
13 the floor, that's dangerous.

14 And as far as she's saying that me sitting
15 in my car before I start to come to --- I told
16 you I was getting wrote up for different things,
17 even within Ground Effects, me being a quality
18 person, I was working on the line, checking tires
19 as a Team Lead, like all Team Leads would, the
20 quality person will let the truck go out the
21 door, and they wrote me up for it. I was not
22 quality at that time. I was doing tires, I was
23 checking tires. I was not -- I was the only Team

1 Lead at Ground Effects that ever got fired for
2 something a quality person did.

3 I kept getting fired for -- I mean wrote
4 up for different things. As far as my
5 attendance, I had good attendance. Most of my
6 days are still through FMLA. I've got paperwork
7 from my doctor and FMLA to show that, and my
8 letter that I got that I said I could give you,
9 my doctor gave me that general thing that was
10 given when I turned that paper in.

11 That's not -- that was not -- that meant
12 any time, not -- I don't know where she gets that
13 it was over with or whatever, but they were
14 coming up with all types of scenarios. And also,
15 I was considered as being discriminated against.
16 Like I said, it was mostly Asians there.

17 It was two separate -- two team leads that
18 stayed there, and I was the longest running Team
19 Lead that they found. She had more time than me,
20 but I was a Team Lead longer than her. I was
21 considered as a good Team Lead. After my family
22 leave came, that's when all of those unnecessary
23 write-ups that -- I'm the only Team Lead that

1 kept getting wrote up for.

2 I had good attendance. We can pull
3 paperwork out. I always -- I held my job, I
4 always was on time. Why was me going to my car
5 sitting at the end of the shift, each Team Lead,
6 once they're done with their -- with their areas
7 they were able to go outside. I was not the only
8 Team Lead going outside.

9 CHAIR SLASH: That concludes your
10 time.

11 MS. WHITSETT: We're dealing with all
12 of this because they're trying -- okay.

13 CHAIR SLASH: Thank you.

14 We're going to hear for two minutes from
15 the Respondent.

16 MS. PARRENT: Yes. The sitting out
17 in the vehicle was done prior to the shift.
18 Again, she was scheduled to come in 15 minutes to
19 a half hour early, prior to the production staff
20 coming in. She would punch in and sit in her car
21 until the production staff came in. She was
22 performing no work while on the clock.

23 The Team Leads, as I stated, they were --

1 they did receive corrective action, they were
2 just not at the same step that Ms. Whitsett was.
3 I mean again, Ms. Whitsett was terminated for
4 reaching the last step of the disciplinary action
5 procedure. No other factors were involved with
6 that position.

7 CHAIR SLASH: Thank you. Does that
8 conclude your time?

9 MS. PARRENT: Yes.

10 CHAIR SLASH: Thank you.

11 Commissioners, we have heard from both the
12 Respondent and the Complainant. This case was
13 also assigned to Vice-Chair Ramos.

14 Vice-Chair Ramos, do you have -- well,
15 first, Commissioners, do you have any questions?

16 COMM. TOLLIVER: No.

17 CHAIR SLASH: Okay. Hearing none,
18 Vice-Chair Ramos, do you have a recommendation --

19 VICE-CHAIR RAMOS: Yes.

20 CHAIR SLASH: -- or any questions?

21 VICE-CHAIR RAMOS: I have no
22 questions. I recommend that we uphold the Deputy
23 Director's finding of no probable cause on all

1 three issues.

2 CHAIR SLASH: Thank you.

3 Is there a motion?

4 COMM. TOLLIVER: So moved.

5 CHAIR SLASH: Is there a second?

6 COMM. JACKSON: Second.

7 CHAIR SLASH: Motion, Comm. Tolliver;
8 second, Comm. Jackson. All in favor?

9 (Commissioners responded, "Aye.")

10 CHAIR SLASH: Any opposed?

11 (No response.)

12 CHAIR SLASH: Okay. The motion
13 carries. Thank you.

14 And thank you both for your participation
15 today. If you have questions, you may take --

16 MS. PARRENT: Thank you.

17 CHAIR SLASH: -- them up with our
18 Docket Clerk.

19 Okay. That concludes --

20 MS. PARRENT: Thank you.

21 CHAIR SLASH: -- our Old -- that
22 concludes our Old Business. Moving to New
23 Business, we have one case, and this case is

1 requesting oral argument. I'll assign this one
2 to myself.

3 Next, Motions and Other Filings, we have
4 Hope Hatley versus CRF First Choice, Inc.,
5 Case EMse24080716.

6 Respondent, by counsel, respectfully
7 requests that the Commission grant an additional
8 enlargement of time to them to submit their
9 Answer, Affirmative Defenses, and Position
10 Statement, with an extension up to and including
11 September 28, 2024.

12 I believe I decided this already, and I
13 did give them the extension. We do not need a
14 vote on that, just read it into the record;
15 correct?

16 MR. LOSTUTTER: Yes.

17 CHAIR SLASH: Okay.

18 The next one, ICRC/Christine Harris versus
19 Dominic Pitzel, Case HOra21040110.

20 The Complainant, by counsel, submits
21 Objection to the ALJ's Recommended Order on
22 Complainant's Motion for Summary Judgment and
23 Respondent's Motion for Summary Judgment.

1 This one does not require any action from
2 us either. I'm just going to keep reading these
3 into the record.

4 Okay. The next one, Andria Moss versus
5 Miller Transportation, Case PAha21110432.

6 Respondent is submitting a Brief in
7 Opposition to the Complainant's Objection to the
8 ALJ's Nonfinal Administrative Decision.

9 The next case, ICRC/Christine Harris
10 versus Dominic Pitzel, Case HOra21040110.

11 The Respondent files a Response in
12 Opposition to Complainant's Objective --
13 Objection to the ALJ's order.

14 Okay. Next, we will review our ALJ
15 Decisions and Orders. In the case of Andria Moss
16 versus Miller Transportation, Case PAha21110432,
17 the Administrative Law Judge in this matter has
18 determined that the Complainant has filed -- I'm
19 sorry -- has failed to meet their burden of
20 proof, rules of behavior -- rules in behavior
21 [sic] of the Respondent and against the
22 Complainant, dismissing their complaint with
23 prejudice. Complainant's attorneys have filed an

1 objection to the Nonfinal Administrative Decision
2 and the Respondents have filed a brief in
3 opposition to the Complainant's objective --
4 objection, to which the Complainant has -- still
5 has time to respond. The objection period in
6 this matter has not closed and no decision is
7 needed at this time.

8 ICRC/Christine Harris versus Dominic
9 Pitzel, Case HOha -- that's HOra21040110.

10 The Administrative Law Judge in this
11 matter, after having considered the evidence and
12 testimony presented by both parties, grants
13 Respondent's Motion for Summary Judgment and
14 denies Complainant's Motion for Summary Judgment,
15 and dismisses Complainant, with prejudice.
16 Complainant's attorneys have filed an objection
17 to this decision and the Respondents have filed a
18 response in opposition to the objection. The
19 Complainant still has time to file a response to
20 the Respondent's response. The objection period
21 in this matter has not closed and no decision is
22 needed at this time.

23 The next case is ICRC/Charlene Cripps

1 versus Noblesville Senior, LLP and NRP
2 Management, LLP, Case HOha23090755. The
3 Administrative Law Judge in this matter has
4 granted the Complainant's motion to withdraw, and
5 the complaint -- and their complaint is dismissed
6 with prejudice. The objection period in this
7 matter has closed.

8 That's one we need to make a decision on?

9 MR. FLEISCHHACKER: (Nodded yes.)

10 CHAIR SLASH: Okay.

11 Is there a motion to affirm this decision?

12 VICE-CHAIR RAMOS: So moved.

13 CHAIR SLASH: Is there a second?

14 COMM. TOLLIVER: Second.

15 COMM. JACKSON: Second.

16 CHAIR SLASH: Okay. Motion,

17 Vice-Chair; second, Comm. Jackson. All in favor?

18 (Commissioners responded, "Aye.")

19 CHAIR SLASH: Any opposed?

20 (No response.)

21 CHAIR SLASH: Okay. Motion carries.

22 The next case, ICRC Ann Marie --

23 COMM. HARRINGTON: Leichentritt.

1 CHAIR SLASH: -- Leichentrirt versus
2 Meritus Housing, LLC, Yes Communities, and McAvon
3 Lakes Property, LLC, HOha23100762. The
4 Administrative Law Judge in this matter has
5 issued an Order of Default against the
6 Complainant, and the matter is dismissed. The
7 objection period in this matter has not closed
8 and no decision is needed at this time.

9 Next, we are at the cases that are
10 automatically confirmed, so I'll read them into
11 the record. The first case, Gregory L. Wilson,
12 Sr., in his official capacity as Executive
13 Director of the Indiana Rights Commission [sic]
14 versus Van Rooy Properties, HOra23060547.

15 The next case, Christopher Ayres versus
16 Hibbitt Sports Corporate, Case PAha24040213.

17 That concludes our cases, Our Old and New
18 Business. Next on our agenda is to review
19 meeting dates. Does anyone have any concerns
20 with October 21st?

21 VICE-CHAIR RAMOS: Not at this time.

22 CHAIR SLASH: So far, it feels like
23 Mondays were a really great decision for us.

1 COMM. JACKSON: October 21st?

2 CHAIR SLASH: Yes.

3 COMM. JACKSON: Yeah, I'll be here.

4 COMM. TOLLIVER: I'm good.

5 MR. FLEISCHHACKER: And that may be a
6 longer meeting. As you noticed, there were quite
7 a few objections that were filed, so there --

8 CHAIR SLASH: Yes.

9 MR. FLEISCHHACKER: -- will likely
10 be --

11 CHAIR SLASH: You mean a meeting
12 that's going to run the amount of time this
13 meeting went?

14 MR. FLEISCHHACKER: Maybe longer.

15 CHAIR SLASH: Okay. So, prepare
16 to -- try to make your schedule actually
17 available for the entire two-hour period, if you
18 can. And also, try to really deeply look through
19 all of those so that we're able to discuss
20 questions, but we'll go with October 21st, and
21 like I said, Mondays look very good for this
22 Commission.

23 We do not have any Elections, Training or

1 Other. Are there any Announcements?

2 VICE-CHAIR RAMOS: It's Hispanic
3 Heritage Month.

4 CHAIR SLASH: Awesome. Is there
5 anything that you recommend that we look for or
6 that we try to attend?

7 VICE-CHAIR RAMOS: The La Plaza event
8 that's typically at the Military Park, I think,
9 is huge. It's on Saturday, this Saturday.

10 CHAIR SLASH: Okay.

11 VICE-CHAIR RAMOS: And the Indiana
12 Latino Expo has an event as well, as I recall.

13 MR. FLEISCHHACKER: That was last
14 weekend.

15 VICE-CHAIR RAMOS: Okay.

16 MR. FLEISCHHACKER: Yeah, two
17 weekends ago, on multiculturalism.

18 CHAIR SLASH: Okay. Awesome. Thank
19 you.

20 Other than that, I guess I have a personal
21 thing. I will be -- after I leave you all in
22 October, I'm going to Hampton to receive an
23 award. I guess they decided to acknowledge me as

1 a mentor to the Class of 40 Under 40, because
2 it's my first recognition post-age 40. You don't
3 get to -- you don't get to be a part of the
4 class, you get to mentor them, and I think that
5 the mentee that submitted me submitted my work in
6 this space as well as others is how they looked
7 at me for things. So, I wanted to mention that
8 while I was here.

9 VICE-CHAIR RAMOS: Very great.
10 Congratulations.

11 COMM. HARRINGTON: I can vouch for --
12 my Godmother is actually at Hampton, and she's
13 mentoring her, so the joke is I'm a Howard grad.
14 So, they --

15 (Laughter.)

16 CHAIR SLASH: I take that.

17 COMM. HARRINGTON: That's all HBCU
18 love.

19 CHAIR SLASH: Yeah, it take that.

20 VICE-CHAIR RAMOS: Congratulations.

21 CHAIR SLASH: Thank you.

22 And then other than that, we do not have
23 anyone here for public comment, I do not believe.

1 We've had all of the comments today.

2 COMM. JACKSON: We've had them all.

3 CHAIR SLASH: All right. Thank you.

4 And with that in mind, it is 2:28. The
5 meeting is adjourned. Thank you, Commissioners.

6 - - -
7 Thereupon, the proceedings of
8 September 16, 2024 were concluded
9 at 2:28 o'clock p.m.
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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, September 16, 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, 2032.
Commission No. NP0690003

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