

1       BEFORE THE STATE OF INDIANA

2       CIVIL RIGHTS COMMISSION

3       - - -

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        PUBLIC MEETING OF JUNE 21, 2019

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8       - - -

9       PROCEEDINGS

10 in the above-captioned matter, before the Indiana

11 Civil Rights Commission, Steven A. Ramos,

12 Chairman, taken before me, Lindy L. Meyer, Jr., a

13 Notary Public in and for the State of Indiana,

14 County of Shelby, at the Indiana Government

15 Center North, 100 North Senate Avenue, Room N300,

16 Indianapolis, Indiana, on Friday, June 21, 2019

17 at 1:05 o'clock p.m.

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20

21       William F. Daniels, RPR/CP CM d/b/a  
22       ACCURATE REPORTING OF INDIANA  
23       12922 Brighton Avenue  
          Carmel, Indiana 46032  
          (317) 848-0088

1 APPEARANCES:

2 COMMISSION MEMBERS:

3 Steven A. Ramos, Chairman  
Alpha Blackburn (via telephone)

4 Holli Harrington  
James W. Jackson

5

6 INDIANA CIVIL RIGHTS COMMISSION  
By Gregory Wilson, Director

7 & Doneisha Posey, Deputy Director  
Indiana Government Center North

8 100 North Senate Avenue, Room N300  
Indianapolis, Indiana 46204

9 On behalf of the Commission.

10

OTHER COMMISSION STAFF PRESENT:

11

Caroline Stephens Ryker

12

Jordan Burton

Frederick S. Bremer

13

Cody Eckert

Willow Thomas

14

Anehita Eromosele

15

ALSO PRESENT:

16

Sara Blevins

17

Adam Kuss

Kellee Rembert

18

Deborah Rembert

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1                   1:05 o'clock p.m.  
2                   June 21, 2019

3                   - - -

4                   CHAIRMAN RAMOS: All right. I call  
5 to order the public meeting of the Indiana Civil  
6 Rights. Today is June 21st, 2019, and it is 1:05  
7 on my digital watch. We have a number of things  
8 on the agenda today that you have in front of  
9 you. First, we do have a quorum, so we can go  
10 ahead and continue.

11                  I'd like to have an announcement of the  
12 agenda, Judge Ryker.

13                  JUDGE STEPHENS RYKER: Absolutely.  
14 So, as far as the Old Business goes, we do have a  
15 number of appeals that need to be assigned to  
16 different Commissioners. With the New Business,  
17 we do have five appeals to be reported back and  
18 then the Commission make a final determination.  
19 There are six different decisions by the  
20 Administrative Law Judge for the Commission to  
21 review, one of which is here today for oral  
22 argument. We can review the meeting dates, a  
23 period of Announcement, and then finally, Public  
24 Comment.

1 CHAIRMAN RAMOS: Okay.

2 Are there any questions on the agenda?

3 (No response.)

4 CHAIRMAN RAMOS: Any amendments or  
5 additions?

6 (No response.)

7 CHAIRMAN RAMOS: Hearing none, we  
8 will -- I'd like to entertain a motion to approve  
9 the previous meeting minutes.

10 COMM. JACKSON: So moved.

11 CHAIRMAN RAMOS: Is there a second?

12 COMM. BLACKBURN: So moved.

13 COMM. HARRINGTON: Second.

14 CHAIRMAN RAMOS: Comm. Jackson's  
15 motion, Harrington seconds. All those in favor,  
16 signify by saying aye individually, because we're  
17 on the phone.

18 So, Comm. Jackson?

19 COMM. JACKSON: Aye.

20 CHAIRMAN RAMOS: Comm. Harrington?

21 COMM. HARRINGTON: Aye.

22 CHAIRMAN RAMOS: Comm. Blackburn?

23 COMM. BLACKBURN: Aye.

1 CHAIRMAN RAMOS: Aye, as the Chair.

2 Don't forget about me. So, the motion passes.

3 Let's go to the Director's Report.

4 MS. POSEY: All right. Good

5 afternoon, everyone.

6 CHAIRMAN RAMOS: Good afternoon.

7 MS. POSEY: We are coming down from

8 our 46th Annual Consortium Conference that we had

9 actually this week. The Conference started on

10 Monday with a welcome reception; a full day

11 Tuesday of workshops, including Keynote Speaker

12 Federal Judge Tanya Walton Pratt; Wednesday,

13 another full day of speakers, with the lunch

14 Keynote Speaker Brian Payne from CICF; and we

15 ended Wednesday evening with the inaugural ICRC

16 Champions of Civil Rights Awards Dinner, which

17 was -- we had a Keynote Speaker of Mayor Karen

18 Freeman Wilson.

19 So, we had an amazing Conference, and it

20 ended on Thursday with a half day of sessions as

21 well. So, that was kind of the first thing I

22 wanted to bring to your attention, but even the

23 week before that, we had the Indianapolis Indians

1 Civil Rights Night game, and that was a blast,  
2 and I hope you all -- yeah, you both also stayed  
3 for the fireworks.

4 CHAIRMAN RAMOS: They were awesome.

5 MS. POSEY: They were great. They  
6 went on forever.

7 CHAIRMAN RAMOS: I was amazed. They  
8 had like --

9 COMM. HARRINGTON: I was -- they  
10 really did.

11 CHAIRMAN RAMOS: They had like four  
12 wagons, all of this stuff for like 12 minutes.

13 MS. POSEY: Yeah, it was great.

14 We're going to have our Civil Rights Night with  
15 the Fever coming up -- don't quote me --  
16 July 12th. I'll confirm today before you leave.

17 So, that'll be our next -- oh, it's right here.

18 No, it's not on here. It will be our next

19 outing. I want to say it's July 12th, but I'll  
20 confirm.

21 So, if we just look at At a Glance, which  
22 is the third page in the Agency Monthly Report,  
23 when we look at May, we see that our employment

1 inquiries were a lot -- we had a lot more  
2 Employment inquiries, 95, in the month of May,  
3 followed by Housing and Public Accommodations  
4 with 37 and 35, just a few Education, at 9, and  
5 two Credit.

6 But when we look at the section below of  
7 Complaints by Protected Class, so these were  
8 actual complaints filed in the month of May. We  
9 had 23 Race, with only seven Disability, so  
10 usually when I'm talking to you all about this,  
11 it's Disability is typically the protected class,  
12 but as you can see in the month of May, Race was  
13 our protected class that we received the most  
14 complaints.

15 We did a lot more events in -- it's  
16 supposed to say May -- in May from April. We  
17 only did one training in May, because we were  
18 just, you know, gearing up for June and all of  
19 the things that we had going on this month. We  
20 also, I forgot to mention, presented at Equal  
21 Opportunity Day with the Indianapolis Urban  
22 League. They had a conference early June.

23 So, if you look at the end, the last

1 section that we have, a lot of our things went  
2 down from the month, but something that did rise  
3 was our ADR Monthly -- Monetary Settlements, so  
4 we were happy about that, and we're just going to  
5 keep going on.

6 If you, at your leisure, take a look at  
7 the entire Agency Report, it'll show you kind of  
8 how we're keeping track of our key performance  
9 indicators, helping us to make sure that we are  
10 staying in line with, you know, what our mission  
11 is and what we're here to do.

12 Any questions for me?

13 CHAIRMAN RAMOS: Any questions?

14 (No response.)

15 CHAIRMAN RAMOS: A couple of  
16 comments.

17 COMM. BLACKBURN: I have a comment.

18 MS. POSEY: Yes.

19 COMM. BLACKBURN: I'm sorry I missed  
20 the Conference. Things came up that I had to  
21 handle, but I wanted to comment on the Annual  
22 Report, because this one, in all of the years  
23 that I've been at the Commission, is the first



1 one that I can actually put out on the coffee  
2 table.

3 MS. POSEY: Oh.

4 COMM. BLACKBURN: And I receive -- I  
5 receive a lot of annual reports from other  
6 organizations, and once in a while they are  
7 handsome enough and interesting enough that you  
8 think other people would want to pick them up and  
9 browse, but this is one that I think deserves a  
10 special thank you to everyone who worked on it.  
11 Thank you.

12 MS. POSEY: Thank you so much for  
13 that compliment. You know, it's nice to have  
14 pretty Annual Reports, so that's something that,  
15 you know, we congratulate our communications team  
16 on doing, but the substance of what's inside of  
17 the report and the content is the important part,  
18 and that's what we continue to keep improving on.  
19 So, thank you for that. I appreciate it what you  
20 said.

21 CHAIRMAN RAMOS: I would comment as  
22 well on the Consortium. I had a chance to  
23 participate in a number of the sessions as well

1 as the lunch and the dinner, and I mean it was  
2 done -- I've been -- as an IBM'er, I've been to  
3 professional events across the world, and this  
4 ranked right up there. It was just outstanding.

5 MS. POSEY: Oh, wow.

6 CHAIRMAN RAMOS: Attendance was  
7 there, people were engaged, the speakers were  
8 fantastic. So, my hats off to -- you know, to  
9 the Commission for doing an outstanding job.

10 MS. POSEY: Thank you.

11 CHAIRMAN RAMOS: The speakers were,  
12 you know, excellent as well.

13 MS. POSEY: They were, yes.

14 CHAIRMAN RAMOS: And it was  
15 interesting to see the transition of the CICF  
16 Foundation --

17 MS. POSEY: Uh-huh.

18 CHAIRMAN RAMOS: -- which there is --  
19 I didn't get a chance to participate in it. I  
20 mean it is a stark contrast more -- they've  
21 been -- even their board as being more  
22 diversified, and I encourage you to have the  
23 opportunity to look at where they're heading,

1 because I think they'll have a big impact here in  
2 the Central Indiana area.

3 All right. Thank you.

4 COMM. HARRINGTON: I've got one  
5 comment.

6 MS. POSEY: Uh-huh.

7 COMM. HARRINGTON: I've got a tin for  
8 the staff, if you guys could share that. I know  
9 you've had a --

10 MS. POSEY: Oh.

11 COMM. HARRINGTON: -- hard week, so I  
12 figured next week -- one of our women-owned  
13 businesses at the airport has just popped in,  
14 so --

15 MS. POSEY: Yes.

16 COMM. HARRINGTON: -- that's popcorn  
17 for you guys --

18 MS. POSEY: Thank you.

19 COMM. HARRINGTON: -- coming off your  
20 Conference, so --

21 MS. POSEY: Thank you so much.

22 COMM. HARRINGTON: -- I'll echo  
23 everything, and I would like to congratulate you

1 on your recognition, but it was an awesome event,  
2 and look forward to the future in the fact that  
3 the dinner fell on Juneteenth, which is very  
4 significant for Civil Rights. It was awesome.

5 MS. POSEY: Thank you. And we will  
6 continue -- I hope to continue to have that  
7 dinner on Juneteenth every year.

8 CHAIRMAN RAMOS: Thank you. I think  
9 that's a great suggestion and, yeah, I would  
10 congratulate you as well on your recognition.

11 MS. POSEY: Thank you.

12 CHAIRMAN RAMOS: It is well deserved,  
13 and the Indiana Airport Authority also received  
14 recognition for their outstanding work as well.

15 COMM. HARRINGTON: Thank you.

16 CHAIRMAN RAMOS: So, very, very good,  
17 good stuff.

18 Okay. Let's move on. So, the next piece  
19 that we have is the Old Business, so I'll ask  
20 each of the Commissioners to provide their  
21 decisions on their appeals.

22 Comm. Blackburn, you're first up.

23 COMM. BLACKBURN: Yes, and I would

1 like to move that we uphold the Deputy Director's  
2 decision of no probable cause.

3 CHAIRMAN RAMOS: This is in the case  
4 of Penny Washington versus Country Inn Suites,  
5 Commissioner?

6 COMM. BLACKBURN: Yes.

7 CHAIRMAN RAMOS: All right. So, a  
8 motion has been made to uphold the Director's  
9 finding of no probable cause in Penny Washington  
10 versus County [sic] Inn Suites. I need a motion  
11 to approve.

12 COMM. JACKSON: So moved.

13 COMM. HARRINGTON: So moved.

14 CHAIRMAN RAMOS: Second?

15 COMM. JACKSON: Second.

16 CHAIRMAN RAMOS: And all of those to  
17 approve this, all of those in favor,  
18 Comm. Blackburn?

19 (No response.)

20 COMM. JACKSON: Are you still there?

21 CHAIRMAN RAMOS: Comm. Blackburn,  
22 your decision to approve the motion?

23 COMM. BLACKBURN: I'm sorry; what did

1 you say?

2 CHAIRMAN RAMOS: We're taking a vote,  
3 Commissioner.

4 COMM. BLACKBURN: Oh. Aye.

5 CHAIRMAN RAMOS: Comm. Jackson?

6 COMM. JACKSON: Yes.

7 CHAIRMAN RAMOS: Comm. Harrington?

8 COMM. HARRINGTON: Aye.

9 CHAIRMAN RAMOS: And aye as well.

10 The motion passes.

11 Comm. Blackburn, since we have you on the  
12 horn, would you go ahead with your next case, the  
13 case of Dewitt Green versus AACOA?

14 COMM. BLACKBURN: In that same -- in  
15 that case, the recommendation is the same, for  
16 upholding the no probable cause finding.

17 CHAIRMAN RAMOS: Thank you.

18 I need a motion to approve.

19 COMM. JACKSON: So moved.

20 CHAIRMAN RAMOS: I need a second.

21 COMM. HARRINGTON: Second.

22 CHAIRMAN RAMOS: All right. Those in  
23 favor, Comm. Blackburn?

1           COMM. BLACKBURN: Aye.

2           CHAIRMAN RAMOS: Jackson?

3           COMM. JACKSON: Aye.

4           CHAIRMAN RAMOS: Harrington?

5           COMM. HARRINGTON: Aye.

6           CHAIRMAN RAMOS: Aye. The motion  
7 passes.

8           The next case is Comm. Harrington.

9           COMM. HARRINGTON: Is the case of  
10 Michael Simon [sic] versus Lafayette Transitional  
11 Housing Center, I recommend that we uphold the  
12 Deputy Director's finding of no probable cause.

13          CHAIRMAN RAMOS: Okay. The  
14 correction is Michael Simson; is that -- is that  
15 right?

16          COMM. HARRINGTON: Uh-huh. That's  
17 what I said --

18          CHAIRMAN RAMOS: Okay.

19          COMM. HARRINGTON: -- Simson.

20          CHAIRMAN RAMOS: Okay.

21          I need a motion to approve.

22          COMM. JACKSON: So moved.

23          CHAIRMAN RAMOS: I need a second.

1 Alpha?

2 COMM. BLACKBURN: Second.

3 CHAIRMAN RAMOS: All those in favor,

4 Comm. Blackburn?

5 COMM. BLACKBURN: Aye.

6 CHAIRMAN RAMOS: Comm. Jackson?

7 COMM. JACKSON: Aye.

8 CHAIRMAN RAMOS: Comm. Harrington?

9 COMM. HARRINGTON: Aye.

10 CHAIRMAN RAMOS: And aye.

11 The next case is also Comm. Harrington.

12 COMM. HARRINGTON: Uh-huh. In the

13 case of Jimella Harris and Jacquese, I think,

14 Hightower versus East Allen County Schools

15 District, I wish to uphold the Deputy Director's

16 findings of no probable cause.

17 CHAIRMAN RAMOS: Thank you.

18 I need a motion to approve.

19 COMM. JACKSON: So moved.

20 CHAIRMAN RAMOS: I need a second.

21 Alpha?

22 COMM. BLACKBURN: I'll second.

23 CHAIRMAN RAMOS: All those in favor,



1 Comm. Blackburn?

2 COMM. BLACKBURN: Aye.

3 CHAIRMAN RAMOS: Comm. Jackson?

4 COMM. JACKSON: Aye.

5 CHAIRMAN RAMOS: Comm. Harrington?

6 COMM. HARRINGTON: Aye.

7 CHAIRMAN RAMOS: And aye.

8 In the case of Kellee Rembert versus

9 Central Elementary School, I recommend that we

10 uphold the Director's finding of no probable

11 cause. I need a motion to approve.

12 COMM. HARRINGTON: So moved.

13 CHAIRMAN RAMOS: I need a second.

14 COMM. JACKSON: Second.

15 CHAIRMAN RAMOS: All those in favor,

16 Comm. Jackson?

17 COMM. JACKSON: Aye.

18 CHAIRMAN RAMOS: Comm. Blackburn?

19 COMM. BLACKBURN: Aye.

20 CHAIRMAN RAMOS: Comm. Harrington?

21 COMM. HARRINGTON: Aye.

22 CHAIRMAN RAMOS: And aye. There's a

23 question on the floor?

1 MS. D. REMBERT: Yes, I do. I'm  
2 Kellee Rembert's mother, and this is concerning  
3 our grandson, and you -- you said no probable  
4 cause, you're upholding that. I was here to  
5 speak on their behalf, because my grandson was  
6 mistreated, and he wasn't cared for. He has  
7 spina bifida, and my grandson, the nurse never  
8 took time to assist him, which I have --

9 MS. K. REMBERT: He ended up in the  
10 hospital.

11 MS. D. REMBERT: He ended up in the  
12 hospital because of that, because he fell in the  
13 nurse's bathroom, and they didn't even want to  
14 call the hospital. He was mistreated. He was  
15 bullied.

16 CHAIRMAN RAMOS: So, as a point of  
17 order, there's a section at the end, which are  
18 Public Comments, so if you would wait until we  
19 get to that point, we'd love to entertain your  
20 conversation.

21 MS. D. REMBERT: Okay.

22 CHAIRMAN RAMOS: Thank you.

23 All right. Comm. Slash has provided her

1 recommendations in the Travis Story versus  
2 FCA US LLC. Her recommendation is to uphold the  
3 Director's finding of no probable cause. I need  
4 a motion to approve.

5       COMM. JACKSON: So moved.

6       CHAIRMAN RAMOS: I need a second.

7       COMM. HARRINGTON: Second.

8       CHAIRMAN RAMOS: All those in favor,  
9 Comm. Blackburn?

10       COMM. BLACKBURN: Aye.

11       CHAIRMAN RAMOS: Comm. Jackson?

12       COMM. JACKSON: Aye.

13       CHAIRMAN RAMOS: Comm. Harrington?

14       COMM. HARRINGTON: Aye.

15       CHAIRMAN RAMOS: And aye.

16       In the next case, it's Linda Long versus  
17 Dynamite Building Maintenance. Comm. Jackson?

18       COMM. JACKSON: Uphold the Director's  
19 finding of no probable cause in Linda Long versus  
20 Dynamite Building Maintenance, Incorporated.

21       CHAIRMAN RAMOS: I need a motion to  
22 approve.

23       COMM. HARRINGTON: So moved.

1 CHAIRMAN RAMOS: I need a second.

2 COMM. JACKSON: Second.

3 CHAIRMAN RAMOS: I don't think you

4 can approve your own motion. I don't think so.

5 Robert's Rules says --

6 COMM. JACKSON: Okay.

7 CHAIRMAN RAMOS: Comm. Blackburn?

8 COMM. BLACKBURN: Aye.

9 CHAIRMAN RAMOS: All those in favor,

10 Comm. Blackburn?

11 COMM. BLACKBURN: Aye.

12 CHAIRMAN RAMOS: Comm. Jackson?

13 COMM. JACKSON: Aye.

14 CHAIRMAN RAMOS: Comm. Harrington?

15 COMM. HARRINGTON: Aye.

16 CHAIRMAN RAMOS: And aye.

17 The last case we have is Amy Simpson

18 versus the City of Tell City. In that case, I

19 recommend the Director's finding of no probable

20 cause. I need a motion to approve.

21 COMM. JACKSON: So moved.

22 COMM. HARRINGTON: Second.

23 CHAIRMAN RAMOS: It's seconded.

1           COMM. BLACKBURN: Second.

2           CHAIRMAN RAMOS: Thank you.

3           All those in favor, Comm. Blackburn?

4           COMM. BLACKBURN: Aye.

5           CHAIRMAN RAMOS: Comm. Jackson?

6           COMM. JACKSON: Aye.

7           CHAIRMAN RAMOS: Comm. Harrington?

8           COMM. HARRINGTON: Aye.

9           CHAIRMAN RAMOS: And aye.

10          So, let's make sure that we come back and

11         open comments to discuss that one.

12          All right. New Business, Appointments.

13         We have five cases. The first two are Jason

14         Wineke versus Barry's Pizza and Jason Wineke

15         versus Trans-plants Inc. I will assign those and

16         take those myself.

17          The next case is Mona Whitfield versus the

18         American Legion. Comm. Harrington --

19                 COMM. HARRINGTON: Okay.

20                 CHAIRMAN RAMOS: -- I'd like to

21         assign that to you.

22          The next case is Robin Waltz versus Great

23         Clips. Comm. Jackson, I'll assign that to you.

1 The next case is Travis Story versus FCA,  
2 and Comm. Slash has previously reviewed a part of  
3 that, so I'm just going to reassign that to  
4 Comm. Slash.

5 Alpha, you get a -- Comm. Blackburn, you  
6 get a break.

7 All right. The next item on the agenda is  
8 the review of the ALJ Decisions and Orders.

9 JUDGE STEPHENS RYKER: Okay. And  
10 I'll just walk through each of these one by one.  
11 The very first decision is in Elias versus Kilroy  
12 Bar and Grill, and in this case, the parties have  
13 jointly moved to dismiss the case, which the ALJ  
14 granted.

15 CHAIRMAN RAMOS: So, I need a motion  
16 to approve the motion to dismiss.

17 COMM. JACKSON: So moved.

18 CHAIRMAN RAMOS: I need a second.

19 COMM. HARRINGTON: Second.

20 CHAIRMAN RAMOS: All those in favor,  
21 Comm. Blackburn?

22 COMM. BLACKBURN: Aye.

23 CHAIRMAN RAMOS: Comm. Jackson?

1           COMM. JACKSON: Aye.

2           CHAIRMAN RAMOS: Comm. Harrington?

3           COMM. HARRINGTON: Aye.

4           CHAIRMAN RAMOS: And aye.

5           JUDGE STEPHENS RYKER: The second

6 case is Isidoro versus JR Interior Trim and Jesus

7 Fernandez. In this case, the ALJ found the

8 Respondents to be in default, and after

9 conducting a hearing on damages, there was an

10 initial order issued awarding \$8,769.44 to the

11 aggrieved person; however, there was a partial

12 claim dismissed against the individual named, and

13 that's Jesus Fernandez.

14           CHAIRMAN RAMOS: Okay.

15         So, Commissioners, in this particular

16 case, there's a new precedence that looks at how

17 the awards are calculated, and perhaps --

18           JUDGE STEPHENS RYKER: And just a

19 quick point of order. That's actually No. 3.

20           CHAIRMAN RAMOS: Is it No. 3? Okay.

21 My -- I said -- that's the wrong one. Okay.

22 Never mind. We'll discuss that in the next case.

23         I need a motion to approve.

1           COMM. JACKSON: So moved.

2           CHAIRMAN RAMOS: I need a second.

3           COMM. HARRINGTON: Second.

4           CHAIRMAN RAMOS: All those in favor,  
5 Comm. Blackburn?

6           COMM. BLACKBURN: Aye.

7           CHAIRMAN RAMOS: Comm. Jackson?

8           COMM. JACKSON: Aye.

9           CHAIRMAN RAMOS: Comm. Harrington?

10          COMM. HARRINGTON: Aye.

11          CHAIRMAN RAMOS: And aye. Okay.

12          JUDGE STEPHENS RYKER: The next case

13 is Ervin versus U & Me Logistics. This is

14 another default decision, where Respondent was

15 found to be in default by the Administrative Law

16 Judge. After a hearing on damages, the ALJ

17 issued an initial decision awarding the

18 Complainant \$971.17. The issue to which

19 Comm. Ramos referred is located in the order --

20          CHAIRMAN RAMOS: Page 6.

21          JUDGE STEPHENS RYKER: -- on page 6,

22 paragraph 7, and the statement is, "Importantly,

23 the Indiana Civil Rights Law does not define



1 wages as back pay or front pay, and instead, its  
2 broad phrasing allows for an expansive definition  
3 that would include any wages lost because of an  
4 adverse action of an employer," and just as --  
5 again, to clarify, there are no objections  
6 pending to this decision.

7 CHAIRMAN RAMOS: So, what's different  
8 in this is that this actually now sets a  
9 precedent for any future decisions that are  
10 oriented to this, and so, it's important that we  
11 understand that -- how this has changed. Can you  
12 provide a little illumination on that process?

13 JUDGE STEPHENS RYKER: So, you know,  
14 at this point, the order does have to speak for  
15 itself, but the issue is, again, in paragraph 7  
16 on page 6. It is the issue of how wages are  
17 defined in the statute, whether it's an expansive  
18 definition, again, including any lost wages  
19 because of an adverse action of an employer,  
20 quoting from the order there, or simply limited  
21 to, again, quoting from the order, back pay or  
22 front pay.

23 CHAIRMAN RAMOS: So, a little bit

1 more definition in this, so sometimes it's easy  
2 to go back and calculate a back pay for the  
3 individual's role, but if they were assigned to a  
4 lesser role, then they would be impacted not just  
5 by the wages for that period, but what the wages  
6 could have been or should have been. So, that's  
7 what the State of Indiana is taking a look at,  
8 and that's how this comes into play.

9 In this particular case, there are no  
10 objections, so that's important to understand,  
11 but in future ones, this becomes a precedent of  
12 how this is interpreted.

13 COMM. HARRINGTON: So, just for  
14 clarification, then, it's on the law, and to the  
15 question he asked of what is the impact, so  
16 without the -- when was the new law or statute  
17 put in place?

18 MS. POSEY: There's no new law. It's  
19 the interpretation of our current statute.

20 COMM. HARRINGTON: Okay.

21 MS. POSEY: So, having a broad  
22 interpretation of what the statute reads is  
23 showing a different -- it's showing a change in

1 how this was calculated.

2           COMM. HARRINGTON: So, in the past,  
3 would it have been just based on what their pay  
4 is and not what the potential --

5           MS. POSEY: It's really a  
6 case-by-case basis. I think this case lended  
7 itself for this interpretation to come forward.

8           COMM. HARRINGTON: So, I'm still not  
9 really clear. So, is it reducing or increasing  
10 what the individual would have received, just for  
11 clarification? Or did you know which way it  
12 went? Okay.

13           MS. POSEY: So, the law itself does  
14 not actually define those words of "wages" or  
15 "back pay" or "front pay"; right?

16           COMM. HARRINGTON: Uh-huh.

17           MS. POSEY: It says you should get --  
18 you are entitled to wages, back pay and front  
19 pay, but no definition of it. So, there was a  
20 broad interpretation in this case, right, to --  
21 or it expanded the definition to also include  
22 wages lost because of the adverse action, not  
23 just lost wages in the sense of "You made this

1 amount of money on this day, therefore, this is  
2 the lost wage."

3           COMM. HARRINGTON: So, it's the lost  
4 wage and the impact based on this situation?

5           MS. POSEY: Correct.

6           COMM. HARRINGTON: Okay.

7           CHAIRMAN RAMOS: Based on the adverse  
8 action?

9           COMM. HARRINGTON: Yeah.

10          CHAIRMAN RAMOS: Okay. Does that  
11 answer your question?

12          COMM. HARRINGTON: Yes.

13          CHAIRMAN RAMOS: Are there any other  
14 questions on this?

15                 (No response.)

16          CHAIRMAN RAMOS: All right. So, I  
17 need a motion to approve the award.

18          COMM. HARRINGTON: So moved.

19          CHAIRMAN RAMOS: I need a second.

20          COMM. JACKSON: Second.

21          COMM. BLACKBURN: Seconds.

22          CHAIRMAN RAMOS: All those in favor,  
23 signify by saying aye.

1 Comm. Blackburn?

2 COMM. BLACKBURN: Aye.

3 CHAIRMAN RAMOS: Comm. Jackson?

4 COMM. JACKSON: Aye.

5 CHAIRMAN RAMOS: Comm. Harrington?

6 COMM. HARRINGTON: Aye.

7 CHAIRMAN RAMOS: And aye as well.

8 Okay.

9 JUDGE STEPHENS RYKER: The next case  
10 is ICRC versus Creative Approach Realty. This  
11 was a decision issued by Comm. Slash as ALJ, and  
12 even though she's not here, I will note for the  
13 record that she would have recused herself, had  
14 she been present, from making a decision or  
15 participating in the vote on the Commission's  
16 behalf.

17 In this case, there was a motion for  
18 summary judgment filed by Complainant, which  
19 Comm. Slash granted. She then conducted a  
20 hearing on damages and awarded the aggrieved  
21 person \$10,000, along with \$10,000 in civil  
22 penalties to the State of Indiana. There was an  
23 affirmative relief order as well, including an

1 apology letter, policy changes, changes to the  
2 forms used by the company, and additional  
3 training.

4 CHAIRMAN RAMOS: Any questions on  
5 that?

6 (No response.)

7 CHAIRMAN RAMOS: I need a motion to  
8 approve.

9 COMM. JACKSON: So moved.

10 CHAIRMAN RAMOS: I need a second.

11 COMM. HARRINGTON: Second.

12 CHAIRMAN RAMOS: Those in favor,  
13 Comm. Blackburn?

14 COMM. BLACKBURN: Aye.

15 CHAIRMAN RAMOS: Comm. Jackson?

16 COMM. JACKSON: Aye.

17 CHAIRMAN RAMOS: Comm. Harrington?

18 COMM. HARRINGTON: Aye.

19 CHAIRMAN RAMOS: And aye as well.

20 Okay.

21 JUDGE STEPHENS RYKER: Case No. 5 is  
22 He versus Belterra Casino. This was a case where  
23 an initial decision was issued after a hearing on

1 the merits. There was a disability claim where  
2 the ALJ found liability, and then a race claim  
3 and national origin claim where the ALJ dismissed  
4 the case. As a result, there was an award to the  
5 Complainant of seven thousand five hundred and  
6 eighty-three dollars and --

7 MS. POSEY: Seventy-six dollars.

8 JUDGE STEPHENS RYKER: Seventy-six,  
9 excuse me. Thank you -- five hundred and  
10 eighty-three dollars and forty-one cents,  
11 including affirmative relief of training and  
12 policy changes. It's worth noting here that both  
13 Complainant and Respondent have filed objections,  
14 and in Complainant's objections, Complainant has  
15 asked for a briefing schedule as well as the  
16 opportunity for oral argument.

17 CHAIRMAN RAMOS: So, Commissioners, I  
18 would recommend that we put this on the agenda  
19 for our next session to have oral arguments.

20 COMM. HARRINGTON: Uh-huh.

21 MS. POSEY: Well, you want to order a  
22 briefing schedule first, if you want. They've  
23 asked for the opportunity to brief to you, to

1 write out why they think things should be  
2 different. So, I would recommend that you give  
3 them at least 30 days to write those briefs, and  
4 then from there, another 30 days for the oral  
5 argument, at least for --

6 CHAIRMAN RAMOS: Okay.

7 Any questions on that?

8 COMM. HARRINGTON: Huh-uh.

9 CHAIRMAN RAMOS: Any issues with that  
10 recommendation?

11 (No response.)

12 CHAIRMAN RAMOS: All right. So, the  
13 recommendation is to request briefing from the  
14 Complainant and Respondent. That's to be  
15 completed within the next 30 days. So, I need a  
16 motion to approve that.

17 COMM. JACKSON: So moved.

18 CHAIRMAN RAMOS: I need a second.

19 COMM. HARRINGTON: Second.

20 COMM. BLACKBURN: Second.

21 CHAIRMAN RAMOS: All those in favor,  
22 signify by saying aye.

23 Comm. Blackburn?



1           COMM. BLACKBURN: Aye.

2           CHAIRMAN RAMOS: Comm. Jackson?

3           COMM. JACKSON: Aye.

4           CHAIRMAN RAMOS: Comm. Harrington?

5           COMM. HARRINGTON: Aye.

6           CHAIRMAN RAMOS: Aye.

7           JUDGE STEPHENS RYKER: And for the

8 sake of the record, with respect to the oral

9 arguments, we'll need a motion on that as well,

10 and that would put the Commission meeting on

11 August 16th, 2019.

12           CHAIRMAN RAMOS: Okay. All right.

13 So, the motion is to move the oral arguments in

14 the case of He versus the Belterra Casino to our

15 meeting on August 16th. I need a motion to

16 approve.

17           COMM. JACKSON: So moved.

18           COMM. HARRINGTON: Second.

19           CHAIRMAN RAMOS: Second?

20           COMM. HARRINGTON: Second.

21           CHAIRMAN RAMOS: Will those in favor

22 signify by saying aye?

23           Comm. Blackburn?

1           COMM. BLACKBURN: Aye.

2           CHAIRMAN RAMOS: Comm. Jackson?

3           COMM. JACKSON: Aye.

4           CHAIRMAN RAMOS: Comm. Harrington?

5           COMM. HARRINGTON: Aye.

6           CHAIRMAN RAMOS: And aye.

7           All right. So, the next item on the  
8 agenda is the oral arguments. So, in this case,  
9 we have the case of Adam Kuss versus CTI. We do  
10 have both parties present, so the way this oral  
11 argument will flow is that we will give each  
12 party an opportunity for 15 minutes of  
13 discussion, and then five minutes of rebuttal.  
14 We will hold you to time, so please be cognizant  
15 of that.

16           Who will be provided our clock? Will that  
17 be --

18           JUDGE STEPHENS RYKER: The Docket  
19 Clerk.

20           CHAIRMAN RAMOS: Okay. The Docket  
21 Clerk will be managing the time respectfully.  
22 The first up will be the counsel for Adam Kuss,  
23 Mr. Bremer.

1 Did you not find the podium, Judge?

2 JUDGE STEPHENS RYKER: No.

3 CHAIRMAN RAMOS: You may come up to  
4 the table.

5 (Discussion off the record.)

6 JUDGE STEPHENS RYKER: At this time,  
7 all the attorneys, Respondent and Complainant can  
8 move to the table in front here.

9 MS. BLEVINS: Thank you.

10 JUDGE STEPHENS RYKER: And  
11 Comm. Ramos, just to make sure -- Chairman Ramos;  
12 excuse me -- it will be 15 minutes for the  
13 primary argument and five minutes for rebuttal?

14 CHAIRMAN RAMOS: Yes.

15 JUDGE STEPHENS RYKER: So, I'll keep  
16 time. Can everybody see if I hold that up?  
17 Okay. And I'll let the attorneys know when there  
18 are ten minutes remaining, five minutes  
19 remaining, two minutes remaining, and when the  
20 time is completed.

21 MS. BLEVINS: Thank you.

22 CHAIRMAN RAMOS: Okay. Counsel  
23 Bremer, you have the floor.

1           MR. BREMER: I welcome this  
2 opportunity to speak on behalf of the  
3 Complainant, Adam Kuss, who is with me today.  
4 This is an employment discrimination case based  
5 on disability that was -- did not reach a  
6 hearing. There was a motion for summary  
7 judgment, which was filed by the Respondent  
8 employer, which initial findings of fact and  
9 conclusions of law issued in favor of the  
10 Respondent that summary judgment be given.

11          Mr. Kuss objects to that initial findings  
12 and conclusions, and I'm going to get right to  
13 the heart of the issue. This has to do with a  
14 setup in the City of Lafayette, Indiana, where  
15 the Suburu plant gets a lot of its manufacturing  
16 employees through a staffing agency called CTI,  
17 the Respondent in this case.

18          They are hired by CTI, and then they are  
19 sent over to Suburu to be assigned there in  
20 various jobs. Suburu tells them what jobs are  
21 available, and they fill them as they have people  
22 available. Mr. Kuss had worked there at Suburu  
23 for quite a long time, but he has a severe --

1 times when he has severe flare-ups of gout, which  
2 in this particular situation rendered him  
3 incapable of appearing for work for a period  
4 of 73 days. And so, he was kept in a status with  
5 CTI and Suburu where he was not counted as a  
6 person that wouldn't be eligible to come back.

7 So, when his -- when the time came that  
8 the doctors were beginning to clear him to return  
9 to work, he did pursue that opportunity, and  
10 there were some rough spots in the road, because  
11 the -- of course, he was seen at the industrial  
12 clinic of the company, and there were times when  
13 they had to keep moving the date up where he  
14 would be able to return.

15 So, the real problem is this: That with  
16 CTI being the doorkeeper to the entire access to  
17 the Suburu jobs, they are in a position to say  
18 who's going to be able to work there and who  
19 isn't.

20 (Mr. Wilson entered the room.)

21 MR. BREMER: And you've got -- at the  
22 heart of this case is that when this date had  
23 been moved several times for his return and

1 Suburu -- a representative of Suburu called the  
2 regional manager of CTI, a lady by the name of  
3 Tammy Bray, and said, "We don't want him to come  
4 back. And so, Tammy Bray noted that in the  
5 electronic files that they keep, one on each  
6 employee that they refer.

7 So, my -- Mr. Kuss was -- found out that  
8 he was not going to be able to return. He  
9 finally was clear for a certain date, January 4th  
10 of 2017, and he went to the Suburu plant and  
11 talked to an official at the office there, whose  
12 name was Shawn Henson, and she told him, "No,  
13 there aren't any openings right now." Now, this  
14 was after this call to Tammy Bray had been made,  
15 of CTI, so there were no openings, and so, "Come  
16 back in a couple of months."

17 So, he waited and he didn't hear in a  
18 couple months. He thought he was going to get a  
19 call and he didn't, so he did call Ms. Henson on  
20 the phone, and was informed that he was not going  
21 to be able to come back because Suburu said, "We  
22 don't -- we don't want you back," and then she  
23 said, "They don't want you back because the -- of

1 all of the time that you've had off." That  
2 was -- of course, the reason he had time off was  
3 not because he was being lazy or anything like  
4 that, it was because of his disability, the  
5 effects of the disability on his life and ability  
6 to work.

7 Now, Tammy Bray admitted that even when  
8 Suburu says, "We don't want somebody to come  
9 back," that doesn't keep the CTI from going ahead  
10 and referring someone to Suburu, that particular  
11 person. There was no obstacle to that. And  
12 Ms. Henson told Mr. Kuss, "Come back in a year."

13 So, the obstacle was he had to come back  
14 in a year, and he really -- they could have tried  
15 it out, they could have tried out the whole thing  
16 with Suburu and floated him again, and see  
17 whether they were as resolved as three and a half  
18 months before.

19 On April 3rd is when he talked to  
20 Ms. Henson about this, and that's when she told  
21 him that "They said you can't come back." But he  
22 didn't know that they could have gone ahead and  
23 presented him again, and if Suburu could change

1 its mind in a year, why couldn't they change  
2 their mind in three and a half months? That's  
3 the question.

4 And so, when he was put in this position,  
5 he had an explanation that they weren't -- didn't  
6 want him back because of all of these days he had  
7 off because he was sick with the gout. And when  
8 Tammy Bray wrote down the call that she got from  
9 the Suburu representative that it was not -- they  
10 didn't want him, she could not recall that they  
11 had any reason for not wanting him to come back,  
12 and she didn't, of course, write down anything in  
13 the electronic notes memo, the system that they  
14 had, for Mr. Kuss' file as to any reason being  
15 given.

16 So, then you've got one source of  
17 information saying, "It's because you missed so  
18 many days," which is -- has a discriminatory  
19 effect, it has a basis in some kind of a -- "We  
20 don't want you back because you've been sick." I  
21 mean, and so -- but Suburu really didn't give an  
22 explanation like that, didn't give any  
23 explanation at all. It didn't have to give an



1 explanation, and so, it didn't.

2 And so, this whole circumstance, it looks  
3 like Henson was blocking Mr. Kuss from even being  
4 offered again, despite the Suburu preference for  
5 him not being brought back again, not being sent  
6 to Suburu again, because of something she made  
7 up, that it had to do with him being off so many  
8 days.

9 Now, the opportunity is what we're talking  
10 about. The Civil Rights Act has to do with being  
11 denied an employment opportunity. Now, can that  
12 be only that you get the job? No, it could be  
13 also that you have a chance to be in the running  
14 for the job. He was not allowed to be in the  
15 running again for a whole year.

16 So, the employment opportunity -- Suburu  
17 may have held fast to their original idea that  
18 they didn't want him back, but they were never  
19 given the chance to do that, and he was not given  
20 the chance to be in the group that would be in  
21 the running for the opportunity. The loss of the  
22 opportunity is what we're talking about here.

23 If this case goes to hearing, you know, it

1 may -- other evidence may develop that Suburu  
2 wouldn't have considered him, wouldn't have  
3 relented, but we have to remember that Suburu  
4 said, "We don't want him back." They didn't put  
5 any time limit on it and say, "Oh, we'll look at  
6 him in a year."

7       So, it looked like it was forever they  
8 didn't want him back. So, if it wasn't forever  
9 in terms of the year, then why wouldn't it be --  
10 have to be forever in terms of just three and a  
11 half months. From the time that Tammy Bray got  
12 that information, it was in mid-December, and  
13 then he was rejected by Ms. Henson on April 3rd  
14 of the next year, of 2017, and was not given a  
15 chance to be offered as one of the people that  
16 CTI wanted to send over there to Suburu.

17       We believe that the -- Mr. Kuss should  
18 have an opportunity to have this case tried in a  
19 forum where there's an actual trial, and not on  
20 paper, like we're doing in this case. If this  
21 summary judgment order is sustained by the  
22 Commission, that will keep Mr. Kuss from ever  
23 having any opportunity to present the factors

1 that I have indicated here.

2 There is a genuine issue of material fact,  
3 unlike what the Judge has indicated, that a  
4 discriminatory act was committed in not letting  
5 him be sent on to Suburu within a reasonable  
6 period of time, and not just -- I mean Suburu had  
7 no rule about it being a year. That was  
8 something that they did at CTI.

9 So, we'll never know, you know, what the  
10 result of that would have been, of course, but he  
11 should have been given the opportunity to be  
12 presented as a possible candidate again, and  
13 that's why we're here today on these objections.

14 CHAIRMAN RAMOS: Thank you.

15 Are there any questions for Counsel  
16 Bremer?

17 COMM. JACKSON: Was it 73 days or  
18 three and a half months? You said 73 days.

19 MR. BREMER: Oh, 73 days Mr. Kuss was  
20 not able to work because of his gout.

21 COMM. JACKSON: And the three and a  
22 half months?

23 MR. BREMER: That was between

1 mid-December and the first of April,  
2 mid-December 2016 and first of April, 2017. That  
3 was the period between when Suburu had announced  
4 that they didn't want him back to the date that  
5 he was rejected by Ms. Shawn Henson at the CTI  
6 office, and was told, "Suburu does not want you  
7 back. You've had too many days off."

8           COMM. JACKSON: Was it an acute case  
9 of gout?

10          MR. BREMER: I believe this was  
11 probably one of the most severe I've ever heard  
12 of.

13          COMM. JACKSON: Was it an acute case?

14          MR. BREMER: He could tell you how  
15 bad it was, but I mean it was -- he couldn't  
16 dress himself, he could not -- he had to have  
17 assistance doing anything, had trouble walking.

18          COMM. JACKSON: So, that would be an  
19 acute case.

20          MR. BREMER: Yes, I would say so.

21          COMM. JACKSON: Are you aware that  
22 the maximum number of days an acute case of gout  
23 in that nation is about 14 days that it lasts? I

1 guess I would wonder why he was off 73 days

2 when --

3 MR. BREMER: He has other

4 disabilities.

5 COMM. JACKSON: Oh, he has other

6 disabilities?

7 MR. BREMER: Right.

8 COMM. JACKSON: Okay. Thank you.

9 MR. BREMER: Uh-huh. They contribute

10 to that.

11 COMM. JACKSON: Thank you.

12 CHAIRMAN RAMOS: Comm. Blackburn, any

13 questions?

14 COMM. BLACKBURN: I do have a

15 question about whether -- who was it who

16 confirmed that he was no longer wanted by Suburu?

17 Is that hearsay?

18 CHAIRMAN RAMOS: You can answer that

19 question.

20 MR. BREMER: It was confirmed in a

21 phone call from a representative of Suburu to the

22 regional manager at CTI. That phone call advised

23 that Suburu did not want him to come back. That

1 was in the context of there being several delays  
2 in his return to work. He had been approved more  
3 than once, but -- for certain dates to return,  
4 and so, that's when that confirmation first came,  
5 if that is what you're asking, Commissioner. I'm  
6 not sure exactly if I'm answering your question.

7       COMM. BLACKBURN: Yes. I'm trying to  
8 understand why there were so many delays in his  
9 applying or reapplying for work there. Couldn't  
10 they have informed him by phone, letters,  
11 something, sooner?

12       MR. BREMER: Well, of course, they  
13 could have informed him that they had taken  
14 this -- he was no stranger to Suburu. He had  
15 worked there for quite a long time, even though  
16 there was that long bout of illness that he  
17 couldn't work. It wasn't like he was unavailable  
18 to be informed of this.

19       And furthermore, when Tammy Bray was  
20 informed of this, he wasn't called then, in the  
21 middle of December 2016, when this was supposed  
22 to have been -- this information was conveyed.

23       CHAIRMAN RAMOS: Comm. Blackburn, are

1 you okay?

2 COMM. BLACKBURN: Yes.

3 CHAIRMAN RAMOS: All right. So, we

4 will move to the representative for CTI.

5 Counsel?

6 COMM. JACKSON: Just one more thing.

7 CHAIRMAN RAMOS: Oh, sure.

8 COMM. JACKSON: So, initially you

9 said he was off for 73 days because of the gout;

10 correct?

11 MR. BREMER: Right. There were other

12 complicating factors. I don't remember what all

13 was wrong.

14 COMM. JACKSON: So, was he off for 73

15 days because of the gout, or was he off for 73

16 days because of the gout and other disabilities,

17 and are they in -- I was trying to find some

18 other disabilities in this paperwork here.

19 MR. BREMER: I would have to say that

20 I cannot speak authoritatively as to what all was

21 involved. He did give a deposition. He had a

22 lot of complications in his health picture.

23 COMM. JACKSON: Well, was he off --

1 MR. BREMER: It wasn't --

2 COMM. JACKSON: Was he off for 73  
3 days because of the gout?

4 MR. BREMER: He was off 73 days  
5 because he was sick, and that's -- was what  
6 happened.

7 COMM. JACKSON: Okay. Thank you.

8 MR. BREMER: Thank you.

9 CHAIRMAN RAMOS: Okay.  
10 Counsel Blevins?

11 MS. BLEVINS: Thank you.

12 I think it would be helpful to go through  
13 some of the time line on how things unfolded, and  
14 particularly in the fall of 2016. This is  
15 actually the second occasion that Mr. Kuss had  
16 worked for CTI. He first worked December 8th,  
17 2015 until January of 2016, when he became ill  
18 and was no longer able to work at that time.

19 Importantly, at that point when he became  
20 ill, he was told to reapply in one year, because  
21 indeed, that is CTI's policy, that if for some  
22 reason employment is terminated, to give the  
23 employee an opportunity, the best opportunity



1 possible, to be reaccepted by Suburu. In their  
2 experience, one year is the time period that  
3 gives that employee the best chance of that.

4 He was not told that just once, but he was  
5 also told that twice, when he went to Job Fair in  
6 April and spoke to yet another CTI representative  
7 that was at the Job Fair. He was told that it  
8 had been too soon since his termination, and to  
9 try again in one year.

10 He ended up getting employed through a  
11 Work One program in less than one year, on  
12 May 6th of 2016, but that wasn't a direct hire,  
13 that was through this Work One program. He  
14 worked until August 26th of 2016, when then he  
15 became ill, and then was unable to return to work  
16 until -- January 4th of 2017 was the  
17 return-to-work date given by his doctor.

18 And then around -- between August 26th of  
19 2016 and then that January date, there were four  
20 different times that his return date was moved by  
21 his doctors. And importantly, in that interim  
22 there were also two times that CTI requested  
23 reassignment to Suburu and Suburu accepted it,

1 and he attempted to return to work on both times  
2 and was unable to do so due to his medical  
3 condition.

4 After that second time that he attempted  
5 to return to work and was unable to do so, that's  
6 when Suburu called CTI, called Tammy Bray, and  
7 said that they didn't want him to come back, and  
8 that was -- he attempted to return on  
9 December 12th, and that call was made on  
10 December 16th to Suburu. Tammy noted that in the  
11 file.

12 And then when Mr. Kuss called back in  
13 January, there weren't any open positions at the  
14 time, and the reasonable inference is that  
15 Ms. Henson just didn't open his file and see that  
16 note. It wasn't Ms. Henson that had had that  
17 phone call, it was Ms. Bray.

18 And so, with no open positions, she  
19 didn't -- the reasonable inference is that she  
20 didn't bother to open his file and see that  
21 notation. And then when he called back in April,  
22 that's when she saw the notation, and per policy,  
23 CTI's practice and policy that's applied to

1 everyone, she said, "Reapply in one year."

2 And I think that is an important point,  
3 that it's CTI's policy to tell everyone, not just  
4 Mr. Kuss, but everyone in the same situation,  
5 "Try to apply again in a year." And again,  
6 that's based on the experience that CTI has with  
7 Suburu, and when they are more likely to accept  
8 people that have worked there before and for  
9 whatever reason had stopped working.

10 So, this wasn't something that was just  
11 told to him, this is something that's told to  
12 everybody, and indeed had been told to him the  
13 first time around.

14 Now, looking at the applicable legal  
15 standards for this type of disability  
16 discrimination case, there are two things that  
17 are important in this case. I'm going to talk  
18 about the one that the ALJ talked about first,  
19 because obviously that's what the ALJ based her  
20 decision on, and that is pretext and the but-for  
21 cause of the adverse employment action.

22 In this case, the but-for cause was that  
23 Suburu called CTI and said, "We don't want him to

1 come back," and at that point, based on their  
2 experience with Suburu, they knew that that was  
3 what was going to happen. That was the but-for  
4 cause of not resubmitting Mr. Kuss for assignment  
5 in April 2017.

6 Now, the question of pretext is: Did  
7 Suburu really believe it? Was that an honest  
8 reason? Was that the truthful reason, or were  
9 they lying about the reason they give for why  
10 they weren't resubmitting him. There is no  
11 evidence that they were lying, that the phone  
12 call didn't happen, or that they somehow didn't  
13 believe that to be the case.

14 In fact, again, the policy of CTI is that  
15 they tell everyone, "Wait a year." So, again,  
16 there's no evidence that that was dishonest. And  
17 we're not looking at "Was it wise? Was it  
18 reasonable? Was it --" or anything like that,  
19 just "Was it honest?" And there's no evidence it  
20 was a lie.

21 The other thing that I believe is  
22 important in this case is -- one of the other  
23 factors is: Was the applicant able to perform

1 the essential functions of the job? And in this  
2 case, unfortunately, that is not the case. And  
3 there is significant case law establishing that  
4 regular attendance can be an essential job  
5 function.

6 And it -- that is true in this case,  
7 particularly because Suburu has identified they  
8 have a 98-percent attendance policy. It is  
9 important for Suburu that they have people that  
10 can reliably show up to work. And so, in this  
11 case, regular attendance was an essential  
12 function of the job, and indeed, the Indiana  
13 statute defers to the employer in identifying  
14 essential job functions.

15 Unfortunately, because of Mr. Kuss'  
16 medical condition, there were long stretches of  
17 time where he was unable to work, not just when  
18 he was employed for CTI, but also in around --  
19 in 2017. There were two instances where he had a  
20 few weeks where he was unable to work, and  
21 unfortunately, the disability discrimination  
22 laws, they're not medical people.

23 The courts have, you know, consistently

1 found that these aren't meant to provide  
2 long-term absences. It's -- the accommodation,  
3 the situation, is meant to allow someone to  
4 perform the essential functions of the job with  
5 reasonable accommodation, and long-term leave is  
6 not a reasonable accommodation under the  
7 circumstances.

8 Case law also supports the notion that you  
9 can anticipate, based on prior history, that  
10 someone is not going to be able to, in the  
11 future, have reliable attendance. And in this  
12 case, because of the nature of Mr. Kuss'  
13 condition and the history of his absences, there  
14 was -- it was reasonably extrapolated that in the  
15 future he would be unable to work during periods  
16 of time.

17 Furthermore, there is case law that also  
18 says if you make a decision based on consequences  
19 of a disability as opposed to the disability  
20 itself, that is not discrimination. And in the  
21 cases, they specifically address the situation of  
22 regular attendance. If you cannot regularly  
23 attend your job, as a consequence of your

1 disability, making a decision based on those  
2 absences is not the same as making a decision  
3 about the disability. It's the consequence of  
4 the disability, not the disability itself.

5 So, making -- again, Mr. Bremer's right,  
6 they did not give a reason for why they were  
7 saying they didn't want him back, but presuming  
8 it was because he had this long absence, again,  
9 that's a consequence of the disability, not the  
10 disability itself, and was a permissible ground  
11 on which to base the decision, assuming that was  
12 the reason for Suburu's decision.

13 CTI's decision, however, was based on the  
14 fact that Suburu directed them, "We don't want  
15 Mr. Kuss to come back at this time," and CTI  
16 applied its regular policy that it applies to  
17 everybody. They recommended, "Reapply in a  
18 year." Mr. Kuss did not do that, so we don't  
19 know what would have happened, but that is --  
20 that is, again, their policy that they have  
21 applied to everybody else.

22 So, for that reason, we think that the ALJ  
23 was correct in determining that there was no

1 disability discrimination in this case. Based on  
2 the evidence that everybody agrees to in this  
3 case, there are no genuine issues of material  
4 fact, and under the applicable law, CTI was  
5 indeed entitled to judgment as a matter of law.

6 And thank you for your time today.

7 CHAIRMAN RAMOS: Thank you.

8 Are there any questions for Counsel  
9 Blevins?

10 COMM. JACKSON: Did do ever -- did  
11 you ask CTI -- is it CTI?

12 MS. BLEVINS: CTI is the staffing  
13 agency, correct.

14 COMM. JACKSON: So, it's their  
15 policy.

16 MS. BLEVINS: For the one year?

17 COMM. JACKSON: For the one year.

18 MS. BLEVINS: Correct.

19 COMM. JACKSON: Did you ask them if  
20 they had ever allowed someone to reapply in less  
21 than a year?

22 MS. BLEVINS: I don't know the answer  
23 to that. It is their standard policy and



1 practice to tell people to apply in one year. I  
2 don't know if there have been exceptions or not.  
3 And that's not in the record.

4 COMM. JACKSON: Thank you.

5 CHAIRMAN RAMOS: Are there any other  
6 questions?

7 (No response.)

8 CHAIRMAN RAMOS: All right. So, we  
9 will go to rebuttal.

10 MR. BREMER: Thank you.

11 CHAIRMAN RAMOS: Mr. Bremer?

12 MR. BREMER: Speaking to that last  
13 point, one of the items that were designated as  
14 evidence for the summary judgment proceeding was  
15 an affidavit signed by Tammy Bray, the person I  
16 referred to earlier, and there is a particular  
17 paragraph here that I'll read to you.

18 It says, "Because SIA," or Suburu, "told  
19 us that they would not accept Mr. Kuss for  
20 reassignment, CTI has no ability to force SIA to  
21 accept Mr. Kuss back for assignment. Mr. Kuss  
22 can reapply, but we cannot guarantee that SIA  
23 would accept him for placement."

1 Now, that's indicative of something less  
2 than a year is possible here. He can reapply,  
3 and if he can reapply, then they can float him in  
4 front of Suburu and say, "Are you sure you don't  
5 want him back?" It says nothing about a year  
6 here in this affidavit. This is an affidavit  
7 produced by the CTI representative.

8 Now, we're not talking about a reasonable  
9 accommodation case here. That is -- this kind of  
10 a situation is kind of peculiar, because the  
11 employees are being hired and supplied kind of  
12 like out of a warehouse to the Suburu plant, and  
13 they just bring in more, you know, as they're  
14 needed. It isn't like something where, "Well,  
15 you need an accommodation today. You know,  
16 Suburu is dealing with that."

17 Yeah, they end up supervising these people  
18 that are sent there by CTI, but we're not saying  
19 that this is a reasonable accommodation. We're  
20 not -- I got some indication here that they were  
21 trying to veer over into that. That's --  
22 Mr. Kuss has to stand on his own merits.

23 After this unfortunate period of time that

1 he was so sick, he has been able to recover very  
2 well from that and has worked as a truck driver,  
3 which you can imagine you couldn't do that if you  
4 had the kind of symptoms he had.

5 We don't know what would have happened to  
6 him. We don't know what Subaru would have done.  
7 They could have -- they could have let him apply  
8 at CTI; there's no question about that. There  
9 was no ironclad rule, "You can't apply for a  
10 year," otherwise, Tammy Bray would have said  
11 something about it.

12 Now, regular attendance being an essential  
13 function of the job, yes, that's true. It would  
14 be an essential function of any job. We're not  
15 saying that he should not be held to, you know,  
16 regular attendance. He had a history of being  
17 sick, and the -- Henson explained to him,  
18 essentially she said, "Because you were so sick  
19 for so long, you're not going to be able to go  
20 back to Subaru."

21 She just added that in. So, was that part  
22 of her thinking for why she didn't say, "Yeah,  
23 you can reapply. You probably won't get in, but

1 you can reapply"? Is that what was tipping it?  
2 By her throwing that in there -- and there was  
3 nothing from Suburu. They just said, "We don't  
4 want him back." They didn't say anything about  
5 any reason at all for that being said.

6 CHAIRMAN RAMOS: Are you --

7 MR. BREMER: I -- basically I'm going  
8 to stand on those comments.

9 CHAIRMAN RAMOS: All right. Thank  
10 you.

11 Any further questions for Counsel Bremer?

12 COMM. JACKSON: Is Suburu an at-will  
13 employer?

14 MR. BREMER: I don't know if they are  
15 unionized. I can't say.

16 COMM. JACKSON: Are they an at-will  
17 employer?

18 MR. BREMER: Well, aside from -- I  
19 mean for employees like Mr. Kuss, they would be.

20 COMM. JACKSON: In general, are they  
21 at will? I just want you to say "yes" or "no."  
22 Do you know?

23 MR. BREMER: They are at will, except

1 to the extent that their employees are subject to  
2 a bargaining agreement.

3       COMM. JACKSON: By the union?

4       MR. BREMER: Correct.

5       COMM. JACKSON: Thank you.

6       CHAIRMAN RAMOS: Any other questions?

7       (No response.)

8       CHAIRMAN RAMOS: Okay.

9       Counsel Blevins?

10       MS. BLEVINS: I'd like to point out  
11 that there actually are two affidavits by Tammy  
12 Bray in the record, and in her second affidavit,  
13 she has testified in the affidavit as to CTI's  
14 policy and common practice to tell a former  
15 employee to reapply for employment within one  
16 year.

17       She says the reason for this is to allow  
18 sufficient time to pass, in the hope that SIA  
19 would then agree to accept reassignment of that  
20 former employee. That invitation to reapply is  
21 in no way a guarantee of placement at SIA. In  
22 fact, they -- in fact, oftentimes a former  
23 employee is not accepted for reassignment after

1 reapplication for one year. So, Ms. Bray did in  
2 fact testify as to the CTI policy on that point.

3 And I do want to clarify, I'm not  
4 suggesting this is a reasonable accommodation  
5 case. The only reason I mentioned that was  
6 because the cases that talk about regular  
7 attendance being an essential function of the  
8 job, they're often in the context of a reasonable  
9 accommodation situation.

10 But the reason why I brought those cases  
11 up is that one of the elements in a  
12 failure-to-hire case is: Is the applicant  
13 qualified to perform the essential functions of  
14 the job? And the cases on reasonable  
15 accommodation are instructive as to what that  
16 would be in this kind of case. And so, that's  
17 why I brought it up, not to imply that this was a  
18 reasonable accommodation case. We understand  
19 that it's not.

20 And I have no further comments. Thank  
21 you.

22 CHAIRMAN RAMOS: Any questions for  
23 Counsel Blevins?

1           COMM. JACKSON: Is there any censure  
2 or anything on the other contributing health  
3 issues? The prevailing issue is gout. Are you  
4 aware of any other issues that contributed to the  
5 length of time off?

6           MS. BLEVINS: I don't know  
7 specifically, but as Mr. Bremer pointed out,  
8 there was testimony in Mr. Kuss' deposition as to  
9 his many medical problems, and CTI was not -- we  
10 didn't have access to his medical records. We  
11 only got doctors' notes about length of time off.

12          So, certainly CTI had no knowledge of the  
13 specifics of that, so I would only know about  
14 what Mr. Kuss testified to regarding his medical  
15 condition, and he had a lot of things going on,  
16 that's certainly true.

17          COMM. JACKSON: Thank you.

18          CHAIRMAN RAMOS: Any other questions?

19                 (No response.)

20          CHAIRMAN RAMOS: So, in front of us  
21 we have a decision to make. The option is to  
22 sustain the motion for summary judgment. The  
23 alternative is -- would be to remand the decision

1 back to the ALJ and to hold a hearing that could  
2 dive into this in more detail than the ALJ, and  
3 of course, we could reverse this as well. So,  
4 these are the options in front us today, and  
5 would you like to have any discussion on that, or  
6 do I have a motion?

7 (No response.)

8 CHAIRMAN RAMOS: I -- my opinion as  
9 it stands would be to remand it back to the ALJ  
10 to provide greater depth and a hearing for each  
11 of the parties versus to sustain the motion for  
12 summary judgment, but that's one opinion.

13 COMM. JACKSON: Based on what?

14 CHAIRMAN RAMOS: On the fact that the  
15 ALJ did review the case, but did not have the  
16 opportunity for each to go through hearing and  
17 provide further documentation and further -- you  
18 know, further evidence, further discussions. So,  
19 to me, that would provide a greater depth, and it  
20 potentially may address both the concerns on the  
21 parties, certainly from Mr. Kuss's standpoint.

22 And my apologies for not pronouncing  
23 his --



1 MR. KUSS: No, that's fine.

2 CHAIRMAN RAMOS: -- name correctly  
3 the first time around.

4 COMM. JACKSON: I just don't know  
5 that -- it seems like the prevailing issue is  
6 gout, and we haven't talked about the other  
7 contributing issues, and, you know, Suburu was  
8 looking at that issue of gout. Unless it's going  
9 to be a sit-down job, then there could be another  
10 flare-up in the future.

11 So, as a business owner, you could say,  
12 "Well, I don't think we want to have him back  
13 because there may be another flare-up," although  
14 some of the sources that I've checked said a  
15 person may only have one flare-up in their  
16 lifetime.

17 Maybe there wouldn't be one, maybe there  
18 would. And if they had him back, maybe it would  
19 be because of the union, more liability on their  
20 part. I don't know if -- because he worked for a  
21 temporary, was he a part of the union?

22 MR. BREMER: I don't know.

23 COMM. JACKSON: He wasn't part of the

1 union?

2 MR. BREMER: I don't even know if  
3 they are union.

4 CHAIRMAN RAMOS: To begin with, I  
5 mean the case -- we keep -- to my understanding,  
6 the key on this is absence of work, and the --  
7 Mr. Kuss's position is based on a disability, and  
8 so, those are the two key points. And whether  
9 it's to your point, you know, he's not able to  
10 work, then how do I as an employer handle that?  
11 And then you have their policies and stuff to  
12 fall back on.

13 So, defining disability, which, in this  
14 case, you know, not being able to work, and in  
15 reading the case, they were able to identify that  
16 there was in fact a disability, with the -- you  
17 know, even the Suburu people suggested that he  
18 take time off because he wasn't ready to come  
19 back.

20 COMM. JACKSON: His disability being  
21 the gout, which in the sources I've checked only  
22 lasted three days if you have medication, without  
23 medication, it's 14 days, and we're talking about

1 73 days off for gout, which is very  
2 extraordinary, but if you're an employer and  
3 you're looking at that, if a person is off for  
4 gout for 73 days, it is worse than acute. I  
5 don't know if I could have you back based on  
6 that.

7 I wanted to check more than one source to  
8 see if you have one medical opinion over here and  
9 one medical opinion over here. If I was in a  
10 court of law, I would want an expert to come in  
11 and talk about gout, and if there are issues that  
12 contributed to gout, that means there's going to  
13 more flare-ups. So, if you own a company, you  
14 would be accepting an employee back who is more  
15 than likely going to have another issue, who's  
16 going to be off, who cannot perform the job.

17 So, then, I would move to uphold the  
18 Director's findings.

19 CHAIRMAN RAMOS: The ALJ's --

20 COMM. JACKSON: Yeah.

21 CHAIRMAN RAMOS: -- motion to -- for  
22 summary judgment?

23 COMM. JACKSON: I mean that would be

1 my opinion, and that's just -- I'm one vote.

2           COMM. BLACKBURN: If that is a  
3 motion, I would second it.

4           CHAIRMAN RAMOS: Okay.

5           COMM. HARRINGTON: And I would just  
6 make a comment, that -- because one of the things  
7 is the issue on the table, I thought, was the  
8 decision by the agency to not push the individual  
9 forward, regardless of what the reason was, and  
10 my -- and I'm looking at the ALJ to make sure I  
11 understand, that was the question of why he  
12 wasn't brought forward, and it was based on the  
13 policy of a year, not his -- necessarily his  
14 condition; is that correct?

15           MS. BLEVINS: Are you looking at me?

16           COMM. HARRINGTON: Well, I don't know  
17 who's supposed to answer.

18           MS. BLEVINS: I don't know, either.

19           JUDGE STEPHENS RYKER: Well, I'll  
20 just make a general disclaimer. At least for my  
21 part as the Administrative Law Judge, the order  
22 has to stand as it is and I can't answer  
23 questions.

1           COMM. HARRINGTON: Okay.

2           CHAIRMAN RAMOS: In reading through  
3 the -- it's one of those things that you can look  
4 at both sides of it and, you know, what defines a  
5 disability. Is it when a person is in a  
6 wheelchair, or is it gout, or is it a serious  
7 back injury? You know, we're -- that's not  
8 necessarily for us from a medical opinion  
9 standpoint.

10          I think that the demonstration that he  
11 wasn't able to attend in the extended periods  
12 probably addresses it as a disability. The  
13 question is whether that absence is really based  
14 on policy, which -- that they indicated in there,  
15 it is genuine. But to your point, if he can't  
16 work, then how does that -- how does that work?  
17 Or -- and again, does it go back for more detail  
18 and to have the ALJ dive into it in more detail?

19          COMM. HARRINGTON: So, my question  
20 would be: Is there more detail, or are we  
21 hearing the same facts?

22          CHAIRMAN RAMOS: I'm -- you don't  
23 know the answer. I think the only way you can

1 find that out is to have a hearing, and that  
2 provides that information for you.

3           COMM. HARRINGTON: Well, we can't  
4 ask?

5           MS. POSEY: If I could just say  
6 something logistically of how this has happened;  
7 right? So, there was a complaint filed, there  
8 was a notice of finding that found cause for  
9 discrimination, and then -- so, it went to the  
10 ALJ to schedule the hearing.

11          So, during that process, the Respondent  
12 filed the motion for summary judgment, which says  
13 there is no genuine issue of material fact based  
14 on the law. Based on what we have here, the case  
15 should be dismissed. So, here we are here with  
16 these oral arguments for that.

17          If you say there is a genuine issue of  
18 material fact, then what that means is they open  
19 this all up, discovery, they go into a lot of  
20 digging, right, and then there would be a hearing  
21 with the ALJ, who will then -- there would be the  
22 final order from you all again.

23          If you say at this moment there is no

1 issue -- genuine issue of material fact, then the  
2 case is dismissed, and they have exhausted their  
3 administrative remedies.

4       COMM. JACKSON: Well, there's a  
5 motion on the floor.

6       MS. POSEY: There is.

7       CHAIRMAN RAMOS: There is a motion on  
8 the floor, and the motion was seconded. So,  
9 let's take a vote on the motion as it stands.

10 The motion is to sustain the motion of summary  
11 judgment. Those in favor, signify by saying aye.

12       Comm. Blackburn?

13       COMM. BLACKBURN: Aye.

14       CHAIRMAN RAMOS: Comm. Jackson?

15       COMM. JACKSON: Aye.

16       CHAIRMAN RAMOS: Comm. Harrington?

17       COMM. HARRINGTON: Aye.

18       CHAIRMAN RAMOS: Comm. Ramos, no.

19 So, the motion carries to uphold the motion for  
20 summary judgment.

21       All right. The next item on the agenda  
22 are some meeting dates. We have the next meeting  
23 on the 22nd of July, and then in August. So, are

1 there any other comments for the meeting dates?

2 (No response.)

3 CHAIRMAN RAMOS: Deputy Director,  
4 Director, any of the Commissioners on the meeting  
5 dates?

6 (No response.)

7 CHAIRMAN RAMOS: Did you get an  
8 answer for the event in July?

9 JUDGE STEPHENS RYKER: I'll send out  
10 a reminder e-mail with that same PowerPoint that  
11 our Director of External Affairs sent out  
12 previously. And just as a reminder to the  
13 Commission generally, if you do want to attend  
14 those events, just shoot me an e-mail and I'll  
15 make sure that gets to the right people so you  
16 get your tickets or whatever else is needed.  
17 We'll generally give you a reminder call, too,  
18 just in case we haven't heard from you before  
19 that deadline.

20 CHAIRMAN RAMOS: Okay. Thank you.

21 So, the next section is Announcements.

22 Announcements?

23 JUDGE STEPHENS RYKER: And I do have



1 an announcement, just an update on one of the  
2 cases that was appealed to the Indiana Court of  
3 Appeals. You'll see in your binders -- and I  
4 apologize, Comm. Blackburn. We haven't sent this  
5 out by e-mail yet, but I'll make sure that it  
6 goes out today -- a copy of an order dismissing  
7 the appeal of the -- and I apologize; if I can  
8 borrow one with the name of the case here.

9 (Pause in proceedings.)

10 JUDGE STEPHENS RYKER: The Evansville  
11 Vanderburgh School Corporation versus Lynn  
12 Farmer. And here, the parties were able to reach  
13 an agreement on their own without having to  
14 follow through with the appeal, so the Court is  
15 not going to take the Commission's decision under  
16 advisement.

17 CHAIRMAN RAMOS: Okay.

18 Are there questions on that?

19 (No response.)

20 CHAIRMAN RAMOS: Basically the case  
21 was settled out of court, so -- and that's a good  
22 thing they were able to come to agreement, and  
23 that's the result of that.

1       Okay. The next piece is Public  
2 Announcements. I believe there was a discussion  
3 previously in the case of Kellee Rembert versus  
4 central Elementary School; is that correct?

5           MS. D. REMBERT: Yes.

6           CHAIRMAN RAMOS: You had some  
7 comments that you wanted to make?

8           MS. D. REMBERT: Yes, I did. I was  
9 here because of my grandson, Ms. Kaylie's --

10          MS. K. REMBERT: Ms. Kellee.

11          MS. D. REMBERT: -- Kellee's -- I'm  
12 sorry -- Ms. Kellee's son. He has spina bifida,  
13 and his disability affects from his waist down.  
14 So, my grandson, in going to the school, he  
15 wasn't given assistance, and helping hisself, he  
16 has to be capped every day, and several times a  
17 day, and each time that he went to the nurse's  
18 office to be capped, she never assisted him, and  
19 the Riley Hospital had spoken and said that he  
20 needed to be assisted in that.

21          There was also times that he was being  
22 very much bullied in school, and even to the  
23 point that it got physical, one kid stabbed him

1 in the hand. It had gotten so bad that my  
2 grandson started retreating under his desk to get  
3 away from all of the pressure that was on him,  
4 and no child has to be treated that way. And I  
5 didn't understand why this was dismissed.

6 CHAIRMAN RAMOS: So, there -- so, the  
7 responsibility is to demonstrate that -- that --  
8 specifically what the discrimination was. In  
9 this case, it had to be disability and race, so  
10 you have to have an -- overwhelming aspects of  
11 that to determine specifically that the reason  
12 for this was because of his disability or for  
13 race.

14 So, the process in this is that you -- a  
15 letter will be sent out to the effect of our  
16 decision today, and then there is a period of  
17 time which they can -- they can respond.

18 MS. K. REMBERT: Well, I'm the  
19 parent, and I was never notified. I have told  
20 the Deputy Director as well as Michael Johnson  
21 that I live in the sort of neighborhood that I  
22 don't get my mail. I prefer e-mails, if you can  
23 e-mail me or call me.

1 With this, I came down here several times  
2 on behalf of my son's case. I have given  
3 everything from his IEP to them, as well as  
4 hospital documentations that could even be  
5 getting [sic] from Riley Hospital itself, letters  
6 that went out from his doctors, all of his  
7 specialties at Riley.

8 That school mistreated my child and  
9 neglected my child, which landed him in the  
10 hospital. They had never contacted me until the  
11 incident took place. I have recordings that show  
12 every incident I ever -- I have sat down with  
13 them.

14 And every problem I ever had with that  
15 school, from the racism, from refusing for him to  
16 eat with his peers, to teachers allowing students  
17 to beat my son in the head where he has a VP  
18 shunt, to getting stabbed with some scissors  
19 that -- we have a document I gave to Michael  
20 Johnson, from all of the recordings I gave to  
21 Michael Johnson.

22 He should never have been mistreated like  
23 that in that school, and as soon as I found out

1 he landed in the hospital, I immediately withdrew  
2 my child from that school. That -- I have -- I  
3 played the recording in my -- what do you call  
4 it, with the lady, that we have had with the lady  
5 in the school?

6 MS. POSEY: Pierre?

7 MS. K. REMBERT: Yeah. I played the  
8 recordings there, and she even had concerns on  
9 why they were doing that, and all they said is in  
10 return, they want diversity training on how to  
11 treat an African-American child and training on  
12 how to, later on, with spina bifida students, on  
13 how to go about taking care of a disabled child,  
14 which I thought that was all part of the  
15 curriculum, even with a nurse. My son should not  
16 have landed in no hospital during school hours.

17 CHAIRMAN RAMOS: Yeah, the question  
18 isn't, you know, the injury that's sustained, and  
19 again, the evidence has to reflect that it was  
20 specifically oriented in regards to the  
21 disability or in regards to race, and that's what  
22 the decisions are made based upon.

23 MS. K. REMBERT: I don't know what

1 Michael Johnson could have gave you. I've given  
2 everything that I could possibly give him. All  
3 he's having -- doing is coming back with some  
4 silverware situation at the school or refusing to  
5 feed him at the school.

6 So, I don't know what I'm supposed to  
7 give, because I'm not a lawyer. I don't know the  
8 law. I just recently learned about the laws,  
9 Title VII for disability children, and it's not  
10 like when I gave birth to a disabled son and he  
11 came with all of these rules and regulations and  
12 laws I was suppose to have in place for him. I'm  
13 learning as I go. This is my first child.

14 CHAIRMAN RAMOS: All right. So,  
15 there -- so, you filed the process, so through  
16 that process you had an opportunity to provide,  
17 you know, evidence that provides overwhelming  
18 evidence in support of your case. I mean that's  
19 the way -- that's the process, the way it works.

20 So, you know, it's assigned to an  
21 individual to do the investigation, and then it  
22 gets reviewed, and in this particular case, by  
23 our -- by the Judge, and they make a decision

1 based on the evidence that you provide.

2 JUDGE STEPHENS RYKER: This was  
3 reviewed by the Director and Deputy Director.

4 MR. WILSON: Didn't you get a copy of  
5 the final --

6 MS. K. REMBERT: No, I physically had  
7 to come down here and get that. I never received  
8 nothing through the mail.

9 MR. WILSON: But you did get a copy?

10 MS. K. REMBERT: Yeah.

11 MR. WILSON: It explains what was the  
12 conclusion of the investigation.

13 MS. K. REMBERT: They -- I mean  
14 paraphrasing, I think that they didn't find no  
15 findings in there, but like I said, I gave him my  
16 son's IEP, I gave him recordings, I gave him  
17 documents from the school, even them admitting to  
18 it. They even admitted in the mediation that  
19 they did it, but I don't know what else I was  
20 supposed to give to get the decision to be  
21 reversed.

22 CHAIRMAN RAMOS: Executive Director?

23 MS. D. REMBERT: Can I say something

1 else, too?

2 CHAIRMAN RAMOS: Sure.

3 MS. D. REMBERT: My son -- my  
4 grandson was eight, nine years old at that time.  
5 We trusted the school to care for him. We  
6 trusted that school. They were told that he --  
7 he -- because his disability being below his  
8 waste, he has a tendency to be clumsy.

9 The hospital told the nurse that she had  
10 to assist him. She was never supposed to put him  
11 in a bathroom, close the door, and not check on  
12 him. He fell trying to care for his own bodily  
13 needs, and hit his head against the sink in the  
14 bathroom, and they decided that they wasn't going  
15 to take him to the hospital.

16 What kind of sense is that when you know  
17 you have a child that has a shunt in his head and  
18 that he was spina bifida? It wasn't until we got  
19 a call that we had to say to them, "Send him --  
20 call the ambulance and send him to the hospital."  
21 Where the principal -- it's not the principal's  
22 call. You've got a kid that's being so  
23 traumatized in school that he is hiding under his



1 desk because he's being mistreated.

2 He gets -- he comes home, he's so excited  
3 that he's going to be in a classroom play, and we  
4 get to the play, and they sit him -- got him  
5 sitting in the back. My kid was mistreated, and  
6 there was no way -- and as much as she sent this  
7 information in, and nobody contacted her and  
8 nobody called, and she kept calling and kept  
9 coming down here, that wasn't fair either.

10 MS. K. REMBERT: I did --

11 MS. D. REMBERT: All of this doesn't  
12 make sense to me. No child should have to go  
13 through this. What if it was your child? I'm  
14 very hurt about that. This was -- someone said  
15 that they didn't find anything wrong, when the  
16 school itself said, "Well, we did this, but we're  
17 sorry."

18 It's not about sorry. It's about not  
19 letting it happen again. It's not just my child,  
20 it's everybody else's child who has -- who's out  
21 there that can't do it for themselves. They  
22 can't speak up for theirselves. They're little  
23 kids. That doesn't make sense to me.

1           CHAIRMAN RAMOS: And my heart goes  
2 out with you, because I appreciate the trauma,  
3 although I obviously have not been in that case,  
4 but my heart goes out to you. I mean, again,  
5 from our standpoint, if -- from the disability  
6 standpoint, did the school provide accommodations  
7 for --

8           MS. K. REMBERT: No.

9           CHAIRMAN RAMOS: -- disabilities?

10          MS. D. REMBERT: No.

11          CHAIRMAN RAMOS: Are there disabled  
12 bathrooms? Are there ramps that go up to it?  
13 Those are all of the kind of things that were  
14 looked at from an investigation standpoint, and  
15 they would go through that, and they would have  
16 to have the conversations with you. That's the  
17 whole process that they go through.

18          MS. K. REMBERT: I've never talked to  
19 Michael Johnson that much. If you all have -- I  
20 can get my phone logs and show you how many times  
21 I called Michael Johnson and the Deputy Director,  
22 how many times I physically came down here. It  
23 doesn't go that far.

1       They're -- I personally feel like that  
2 they wasn't on top of their job of doing anything  
3 compared to a previous case. They wasn't coming  
4 for it. Every time I called to check on the case  
5 or talk to them about it, it's always like,  
6 "Okay. Well, I'll have to call you back. Just  
7 try to send me what you can." Other than that, I  
8 don't know -- like I said, I don't know what goes  
9 in the file.

10       COMM. JACKSON: Is there -- is there  
11 a copy of the initial IEP? Do you have that?

12       MS. K. REMBERT: No. I can get it.

13       COMM. JACKSON: Is that in the file?

14       JUDGE STEPHENS RYKER: Just as a  
15 piece of the public record law, if I can, so  
16 anything that you've submitted to Michael Johnson  
17 or any of the investigators is in our public  
18 record files. So, Comm. Jackson, if you want a  
19 copy of that, we can provide it to you, provided  
20 it's been submitted during the investigation.

21       COMM. JACKSON: Which would be the  
22 initial IEP; right?

23       MS. POSEY: Any and everything that

1 an aggrieved person submits as part of the  
2 investigation is within the file that we have in  
3 our agency, which goes from the investigator to  
4 the supervising investigative director to the  
5 Deputy Director, or Director, in this case, to  
6 review the case, and then finally, it would be  
7 available to the Commissioners.

8       COMM. JACKSON: Yeah. This --

9       MR. WILSON: This investigation is  
10 based on the facts, the things that we get from a  
11 Respondent or the Claimant, and then also  
12 information that we request.

13       COMM. JACKSON: All right. Well, I  
14 just wanted to read it. I mean this wasn't my  
15 case, but I was reading through here, and it  
16 was -- I just see it keep coming up, this IEP,  
17 and to read it to see what was there initially  
18 with regard to assistance to the bathroom, I  
19 don't know -- whoever had the case, maybe they  
20 determined that there was a provision in the --  
21 or an accommodation in the IEP for assistance to  
22 the bathroom.

23       So, then I would have to ask: "Well, how

1 did he end up in the bathroom by himself, if that  
2 was the case?" It does seem in here that they  
3 were going to look into getting him some  
4 assistance to the bathroom, so they acknowledge  
5 that he needed assistance.

6 But if it wasn't in the initial IEP, then  
7 that would give them some -- that would give them  
8 some wiggle room, if you will, to say, "Well, we  
9 didn't have to provide that," versus if you take  
10 the IEP out and the initial conversation between  
11 the parent and the school, and then the school  
12 says, "We will provide someone to take the young  
13 man to the bathroom," and then they don't do it,  
14 then I would say there's an issue there. But I  
15 don't know. I don't -- I'm not looking at  
16 everything, so I don't know.

17 CHAIRMAN RAMOS: So, the -- just a  
18 quick recap. The opportunity to provide the  
19 information in regards to this particular case  
20 has been exhausted. This information was  
21 submitted, it was reviewed by the Indiana Civil  
22 Rights Commission.

23 And in these cases, they take it very,

1 very seriously. I don't want you to think that  
2 it is not. I've looked at many, many cases in  
3 the past years, and certainly something that has  
4 to do with disabilities where someone's injured,  
5 I mean they're all provided due process.

6 But I know that that's the process for the  
7 Indiana Civil Rights Commission, and the  
8 Executive Director reviewed this particular case,  
9 and you have to, again, provide overwhelming  
10 evidence that supports that this discrimination  
11 occurred because of his disability or because of  
12 his race. Those are the two areas that you  
13 identified.

14 And based on the information that was  
15 provided to the Commission and to the Executive  
16 Director, there was nothing in there, not enough  
17 in there certainly to sustain a cause. So, that  
18 was the direction and that was the decision made  
19 by that.

20 MS. K. REMBERT: You're wrong.

21 CHAIRMAN RAMOS: And as  
22 Commissioners, we cannot investigate. We have  
23 the information --

1 MS. K. REMBERT: You're wrong.

2 CHAIRMAN RAMOS: -- that's provided  
3 as far as the public record, and we have to make  
4 our decision based on that information that we  
5 have.

6 COMM. JACKSON: So, what do they do  
7 at this point concerning their son?

8 CHAIRMAN RAMOS: So, you can -- yeah,  
9 I'll let the Executive Director or Deputy  
10 Director --

11 MS. POSEY: I'll just say -- so, the  
12 Commission -- if the Commission upholds the  
13 Director's findings, then they've exhausted their  
14 administrative remedies with the ICRC. There's  
15 nothing they can do with the ICRC.

16 The Director's -- you know, as you know,  
17 you can reverse what the Director has noted in  
18 the notice of finding, or you can remand it back  
19 for further investigation. So, you have those  
20 three options that you can do today. But if the  
21 Director's -- if the Director's decision is  
22 upheld, then they have no more remedies at this  
23 juncture.

1           CHAIRMAN RAMOS: Through the filing  
2 of, you know, a discrimination, either, you know,  
3 race or disability. I mean you may have other  
4 civil options that you have, and certainly if  
5 there is injury, that you can go through perhaps  
6 a different court process.

7           We've actually already made a decision on  
8 this previously, so we would, A, need to reopen  
9 that and remand it back, or continue to uphold  
10 it, and I guess I've never -- in all of my times,  
11 I've never reversed a decision that we've already  
12 made, but there's no reason we can't. So, I open  
13 it up for discussion with the Commissioners on  
14 what you would like to do.

15           COMM. HARRINGTON: The only question  
16 I have is on the final investigative report. It  
17 states that there was an order, and so, we'd be  
18 looking to get clarification that an  
19 accommodation is supposed to be in place for the  
20 son to have a break. It does not state that  
21 they're supposed to have assistance.

22           And so, without knowing what the IEP says,  
23 you're kind of at a loss, because it says in the



1 allegation, Respondent failed to assist with the  
2 necessary OT, PT and speech. Is that part of the  
3 IEP, and were they negligent, and was that  
4 disclosed as part of the investigation?

5 So, that's the only question that -- that  
6 I would have, because it's -- the IEP isn't in  
7 here, or references to that, in what I could skim  
8 sitting here. So, I don't know if there's --

9 MS. K. REMBERT: His IEP is public  
10 record, so I would -- if I'm not mistaken, you  
11 can get that off the Internet through the school  
12 board's Web site, but since he's been attending  
13 school since three, his IEP always stated certain  
14 recommendations for his disability.

15 Spina bifida, it is a spinal injury. It  
16 affects every part of his body. He has a program  
17 for a VP shunt in his head, so certain things  
18 they have to do, recommendations according to  
19 his IEP.

20 On the recording, they know what the  
21 recording -- what his recommendations are,  
22 because it came from specialties from Riley  
23 Hospital, from bathroom breaks, assistance in the

1 restroom, because at that time, which he couldn't  
2 walk that good, he could not do a  
3 catheterization, which is relieving urine,  
4 because he couldn't pee on his own, and he  
5 couldn't do bowel movements.

6 He needed assistance. He was still in  
7 diapers at that time. They was supposed to have  
8 went in there and assisted him on all of that,  
9 which is what the nurse failed to do, on top of  
10 other situations at that school. That was just  
11 the last straw.

12 COMM. JACKSON: So, it sounds like,  
13 to me, it may not have been -- let's say there  
14 was an IEP in place, and there was a -- and there  
15 was an accommodation for him to have someone take  
16 him to the bathroom, and nobody did. Comm. Ramos  
17 made the statement that it would have to be  
18 proven that nobody took him to the bathroom  
19 because of his race.

20 MS. K. REMBERT: I have that on  
21 recording.

22 MS. D. REMBERT: They stated --

23 MS. K. REMBERT: They stated that

1 they didn't take him --

2           COMM. HARRINGTON: What's not stated

3 is the -- on the IEP, is that a required

4 accommodation?

5           COMM. JACKSON: No, no, no, I know

6 that. What I'm saying is we would be saying that

7 he was not accommodated because he -- of his

8 race. Which part --

9           COMM. HARRINGTON: Or disability.

10          COMM. JACKSON: Oh, okay. Or

11 disability. It is not part of the job. Oh,

12 okay. All right. So, I understand.

13          COMM. HARRINGTON: Gotcha.

14          COMM. JACKSON: So, yeah. In other

15 words, that document, the initial document, if it

16 is public record and didn't get in for some

17 reason, I think it would be worth opening it back

18 up for that, just to see, or if it is in there.

19 I mean I don't know.

20          COMM. HARRINGTON: Yeah. My specific

21 question is: Is the IEP a requirement for a

22 disability, and in it, does it state there's an

23 accommodation of the student being escorted, and

1 then if it is, is there a fact that the student  
2 was not escorted? And the issue for me is not  
3 were they escorted because of race or disability.  
4 It seems like it's the school didn't do something  
5 that it was supposed to do, and is that the  
6 responsibility of Civil Rights? That's where I'm  
7 struggling.

8 So, I think I understand the facts, but  
9 there's nothing that states that he wasn't  
10 escorted because of his disability and he wasn't  
11 escorted because of his race, and is there any  
12 direction of what they can do if it is not within  
13 our jurisdiction to address this? So, I'm just  
14 looking for clarity. Am I --

15 CHAIRMAN RAMOS: Executive Director?

16 MR. WILSON: Again, I would go with  
17 Doneisha. I think that you have those three  
18 choices and you need to look at those three  
19 choices. I mean, you know, that's the  
20 Commission's --

21 CHAIRMAN RAMOS: Yeah. So, there --  
22 when letters of notification are sent, when those  
23 are sent, do we get confirmations that they're

1 received?

2 JUDGE STEPHENS RYKER: We do. So,  
3 those are sent Certified Mail. If they haven't  
4 been received, and I believe this was the case  
5 here as well, they can reach out to the Docket  
6 Clerk to make sure that they get those, and they  
7 can send them via e-mail, or they can come in in  
8 person. As I think you mentioned, that's the  
9 option that was taken. So, we do keep records of  
10 that receipt.

11 COMM. JACKSON: So, there's no  
12 confirmation that she received it, or is there  
13 confirmation that she received it?

14 JUDGE STEPHENS RYKER: There would  
15 be. It would have been the sign-in sheet when  
16 she came in to pick it up in person.

17 COMM. JACKSON: She did pick it up?

18 JUDGE STEPHENS RYKER: And you can  
19 feel free to ask her.

20 MS. K. REMBERT: Yeah, I came in and  
21 picked it up. I don't receive my mail all of the  
22 time.

23 MR. WILSON: But normally they're

1 sent out. We send them out.

2 MS. POSEY: It was sent out. You can

3 see in the packet that it was sent out, and a

4 confirmation --

5 COMM. JACKSON: Yeah, but she said

6 she lives in a neighborhood --

7 MS. POSEY: Right.

8 COMM. JACKSON: -- where she doesn't

9 get her mail.

10 MS. POSEY: So, she came in and

11 received it.

12 COMM. HARRINGTON: So, she received

13 it.

14 JUDGE STEPHENS RYKER: We'll make

15 sure it's received. If there's an issue with

16 delivery, we'll either do e-mail or in-person

17 delivery.

18 CHAIRMAN RAMOS: So, she had 15 days

19 to respond.

20 MS. POSEY: She did, uh-huh. That's

21 how it came to you all, that -- for an appeal.

22 COMM. JACKSON: So, who has the

23 original IEP?

1           COMM. HARRINGTON: The IEP --

2           COMM. JACKSON: Or does it exist?

3           MS. POSEY: So, we can get you the

4 entire packet, the entire -- I'm sorry; not

5 packet -- the entire file, which includes if

6 there's any -- she says there might have been

7 some video or audio --

8           MS. K. REMBERT: Recording.

9           MS. POSEY: -- recordings or pictures

10 of any kind of documents that was either received

11 by the Complainant or requested, that we

12 requested directly from the Respondent, and it --

13 her file is pretty large.

14           COMM. JACKSON: So, you're saying at

15 your initial meeting there was an accommodation,

16 there was an accomo -- yeah.

17           MS. K. REMBERT: No, there was no

18 accommodations from the school.

19           CHAIRMAN RAMOS: Remand this?

20           COMM. JACKSON: No, at the initial

21 meeting they said that they were going to do that

22 for your son?

23           MS. K. REMBERT: Yes, it's in his

1 IEP, so they're supposed to do it regardless.

2           COMM. JACKSON: Did they give you a  
3 copy?

4           MS. K. REMBERT: Yeah, I have a copy  
5 of his IEP. It's at my house.

6           COMM. JACKSON: So, you didn't turn  
7 it in?

8           MS. K. REMBERT: No, they have it.  
9 Well, are you talking about --

10          COMM. JACKSON: Oh, it will be in the  
11 case file?

12          MS. K. REMBERT: Yeah, it should be  
13 in the case file. I've given everything I have.  
14 I didn't know what else to give. I have other  
15 documentation.

16          COMM. JACKSON: That's just -- that's  
17 the snag point for me.

18          MS. K. REMBERT: But I have a copy of  
19 his IEP since he's been going to school. I  
20 record every IEP meeting as well.

21          COMM. JACKSON: That's -- go ahead.  
22 I'm sorry.

23          CHAIRMAN RAMOS: We had a lot of good



1 discussion on this, so our options are to uphold  
2 the direction -- well, actually, we really need  
3 to reopen the whole decision previously made, but  
4 to uphold the Executive Director's finding of no  
5 probable cause, to remand it back to the  
6 Executive Director for further review, and we  
7 need to specify what that is, or to reverse it,  
8 and again, we would need to provide detail as to  
9 why we want to reverse it.

10       COMM. JACKSON: So, we're at the  
11 reverse point if you do that; right?

12       COMM. HARRINGTON: Well, I'd like to  
13 make a motion, if I understand things, is that we  
14 would remand back, because I think it's an issue  
15 of clarification. I don't know that it's an  
16 issue of reverse. And so, I would -- I'm looking  
17 for the clarification that based on our  
18 jurisdiction, we -- we make decisions based on  
19 discrimination based on a disability or race.

20       The key component is the IEP, and in  
21 reading this, the individual stated that it was  
22 not her job, not because of a disability or not  
23 because of race, so I'm recommending that we

1 remand so that we can help provide clarification,  
2 so they can understand what our jurisdiction is.

3       There may be some other action that we're  
4 not in a position to take, but without having  
5 clarity in here about the IEP, that's what my  
6 suggestion would be is to remand for  
7 clarification, and if there's something else that  
8 points it back to a decision based on disability  
9 or race, then we would get a recommendation from  
10 the group, but if not, I think it does nothing  
11 but creates clarity of what we can do. And it's  
12 obvious to me that that's not understood with  
13 what they've shared. So, that's my motion.

14       COMM. JACKSON: Are you making a  
15 motion?

16       COMM. HARRINGTON: I'm making a  
17 motion that we remand.

18       CHAIRMAN RAMOS: So, we have --

19       COMM. BLACKBURN: Excuse me.

20       CHAIRMAN RAMOS: Go ahead.

21       COMM. BLACKBURN: Was that a motion,  
22 Comm. Harrington?

23       COMM. HARRINGTON: Yes, that was a

1 motion that we remand, and they said I needed to  
2 be specific on what, so I was specific.

3 CHAIRMAN RAMOS: And so, first we  
4 have to -- back to Comm. Jackson's point, we have  
5 to reverse our previous decision of upholding the  
6 Director's finding, and then second, we would  
7 need to -- then on a second motion, to remand it  
8 back for further investigation with those points  
9 provided; is that correct?

10 JUDGE STEPHENS RYKER: (Nodded yes.)

11 CHAIRMAN RAMOS: Okay. So, I believe  
12 you had made a motion, Comm. Jackson, to reverse  
13 the previous decision.

14 COMM. JACKSON: Well, I was just  
15 asking the question, but if -- to get things  
16 going, I will make a motion to reverse the  
17 original decision to uphold the Director's  
18 findings.

19 CHAIRMAN RAMOS: Okay. I need a  
20 second.

21 COMM. HARRINGTON: Second.

22 CHAIRMAN RAMOS: Those in favor,  
23 signify by saying aye.

1 Comm. Blackburn?

2 COMM. BLACKBURN: Aye.

3 CHAIRMAN RAMOS: Comm. Jackson?

4 COMM. JACKSON: Aye.

5 CHAIRMAN RAMOS: Comm. Harrington?

6 COMM. HARRINGTON: Aye.

7 CHAIRMAN RAMOS: And aye.

8 All right. So, you have a motion on the

9 table to remand the decision back to the

10 Executive Director to specifically look at errors

11 in the accommodation in the IEP --

12 COMM. HARRINGTON: Yes.

13 CHAIRMAN RAMOS: -- and how -- if

14 that reflects to discrimination?

15 COMM. HARRINGTON: Yes.

16 COMM. JACKSON: Second.

17 CHAIRMAN RAMOS: The motion's been

18 seconded. Those in favor, signify by saying aye.

19 Comm. Blackburn?

20 COMM. BLACKBURN: Aye.

21 CHAIRMAN RAMOS: Comm. Jackson?

22 COMM. JACKSON: Aye.

23 CHAIRMAN RAMOS: Comm. Harrington?

1           COMM. HARRINGTON: Aye.

2           CHAIRMAN RAMOS: Aye. Okay.

3           COMM. BLACKBURN: I want to add that  
4 cases that -- like this that are so troubled, to  
5 remind everyone that we can sometimes smell a rat  
6 and not be able to catch it, because the law  
7 doesn't provide us with just the right language  
8 to accomplish that.

9           And I want to ask, in light of that  
10 reality in this particular case, that we consider  
11 accompanying whatever the decision is with a  
12 statement from our Commission, if you decide in  
13 unison you think so, to speak strongly against  
14 the need for greater understanding of the  
15 treatment of our young people who are held by the  
16 restrictions of -- held back because of the  
17 restrictions imposed on them by adults who should  
18 know better but who don't, and don't act in their  
19 best interest.

20           CHAIRMAN RAMOS: Thanks,  
21 Commissioner. That's a point well made. My  
22 recommendation as well is that we do have time  
23 lines in this. It's really important that you

1 provide the information in the time lines that  
2 are required; otherwise, these things move  
3 through a process that's defined by our state  
4 statutes. So, it is important that you find that  
5 and make sure that you're getting the guidance  
6 you can to make sure you're providing all of the  
7 evidence that's important in this case.

8 Are there any other questions or issues to  
9 discuss?

10 JUDGE STEPHENS RYKER: I do have just  
11 a point of clarification on this remand so that  
12 it's very clear on what the Commission is asking  
13 for. I -- you know, I would envision sending the  
14 notice with an explicit request for the aggrieved  
15 person to provide the IEP. Is there anything  
16 else that the Commission is looking for, either  
17 from Respondent or Complainant, that we can  
18 include in that notice?

19 COMM. HARRINGTON: From -- and I  
20 don't know if's from the Respondent or -- the key  
21 thing is: What is the accommodation, required  
22 accommodation, and either in support or it not  
23 support, what was the action that happened

1 relevant to that accommodation, and did it  
2 involve anything from a disability standpoint,  
3 discrimination, or race. I just think that needs  
4 to be very clear.

5 JUDGE STEPHENS RYKER: Thank you very  
6 much, Comm. Harrington, for that clarification.

7 CHAIRMAN RAMOS: Okay. Any other  
8 questions or comments, Comm. Blackburn?

9 COMM. BLACKBURN: I'm sorry?

10 CHAIRMAN RAMOS: Do you have any  
11 other questions or comments?

12 COMM. BLACKBURN: No. Thanks.

13 CHAIRMAN RAMOS: Comm. Jackson?

14 COMM. JACKSON: No.

15 CHAIRMAN RAMOS: Comm. Harrington?

16 COMM. HARRINGTON: No.

17 CHAIRMAN RAMOS: This is -- the

18 Commission is adjourned.

19 - - -

20 Thereupon, the proceedings of  
June 21, 2019 were concluded  
at 2:55 o'clock p.m.

21 - - -

22

23

1 CERTIFICATE

2 I, Lindy L. Meyer, Jr., the undersigned  
3 Court Reporter and Notary Public residing in the  
4 City of Shelbyville, Shelby County, Indiana, do  
5 hereby certify that the foregoing is a true and  
6 correct transcript of the proceedings taken by me  
7 on Friday, June 21, 2019 in this matter and  
8 transcribed by me.

9

10

\_\_\_\_\_

11

Lindy L. Meyer, Jr.,

12

Notary Public in and

13

for the State of Indiana.

14

15 My Commission expires August 26, 2024.

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