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INDIANA  
CIVIL RIGHTS COMMISSION

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BEFORE THE STATE OF INDIANA  
CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF NOVEMBER 15, 2013

ORIGINAL

PROCEEDINGS

in the above-captioned matter, before the Indiana  
Civil Rights Commission, David C. Carter,  
Chairman, taken before me, Lindy L. Meyer, Jr., a  
Notary Public in and for the State of Indiana,  
County of Shelby, at the Indiana Government  
Center South, Conference Center, Room A, 402 West  
Washington Street, Indianapolis, Indiana, on  
Friday, November 15, 2013 at 11:07 o'clock a.m.

- - -

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

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APPEARANCES:

COMMISSION MEMBERS:

David C. Carter, Chairman  
Barry Baynard  
Steven A. Ramos  
Charles D. Gidney

INDIANA CIVIL RIGHTS COMMISSION  
By Jamal Smith, Director/Secretary  
& Akia Haynes, Dep. Director  
Indiana Government Center North  
100 North Senate Avenue, Room N103  
Indianapolis, Indiana 46204  
On behalf of the Commission.

OTHER COMMISSION STAFF PRESENT:

Noell Allen  
Pamela Cook  
Debbie Rincones-Chavez

ALSO PRESENT:

John S. (Jay) Mercer  
Frederick S. Bremer  
Aleesha Bullock

- - -

1 11:07 o'clock a.m.  
November 15, 2013

2 - - -

3 CHAIRMAN CARTER: Okay. I'd like to  
4 call the public meeting of the Indiana Civil  
5 Right Commission to order. We do have a quorum.  
6 There weren't -- were there minutes in the  
7 packet?

8 MS. RINCONES-CHAVEZ: Yes. They've  
9 already been -- at the beginning of the --

10 CHAIRMAN CARTER: Okay. If you've  
11 had a chance to review the minutes, I will accept  
12 a motion to accept them.

13 COMM. GIDNEY: So moved.

14 CHAIRMAN CARTER: And a second?

15 COMM. BAYNARD: Second.

16 CHAIRMAN CARTER: All in favor?

17 COMM. RAMOS: Aye.

18 COMM. BAYNARD: Aye.

19 COMM. GIDNEY: Aye.

20 CHAIRMAN CARTER: Aye.

21 Any opposed?

22 (No response.)

23 CHAIRMAN CARTER: Okay. I just

1 wanted to say a word before the Financial Report.  
2 We will proceed through the agenda, and as we may  
3 see, if you have an agenda, when we get to the  
4 oral argument, after the -- some of the other  
5 business, that is G. on the agenda, and so if you  
6 would bear with us while we get through this.

7 Ms. Cook, the Financial Report, please.

8 MS. COOK: Good morning.

9 MR. SMITH: Good morning.

10 COMM. GIDNEY: Good morning.

11 MS. HAYNES: Good morning.

12 MS. COOK: If you haven't had an  
13 opportunity to review the October Financial  
14 Report, it's located in your packet. So far in  
15 the previous month, there've been no significant  
16 changes, and if you have any questions regarding  
17 the report, I'd like to go ahead and entertain  
18 those at this time.

19 CHAIRMAN CARTER: Any questions?

20 (No response.)

21 CHAIRMAN CARTER: Hearing none, thank  
22 you, Ms. Cook.

23 Old Business, Reports by Commissioners on

1 their Appeals. Do we have anything from  
2 Comm. Blackburn?

3 MS. RINCONES-CHAVEZ: No.

4 CHAIRMAN CARTER: Okay.

5 With that, Comm. Baynard.

6 COMM. BAYNARD: Yes. On the case of  
7 Sandra Holland versus Methodist Hospital, I would  
8 recommend to the Commission that we uphold the  
9 Deputy Director's finding of no probable cause.

10 CHAIRMAN CARTER: May I have a motion  
11 to accept that?

12 COMM. GIDNEY: So moved.

13 COMM. RAMOS: Second.

14 CHAIRMAN CARTER: All in favor?

15 COMM. RAMOS: Aye.

16 COMM. BAYNARD: Aye.

17 COMM. GIDNEY: Aye.

18 CHAIRMAN CARTER: Aye.

19 Any opposed?

20 (No response.)

21 CHAIRMAN CARTER: Do we have  
22 something from Comm. Garcia?

23 MS. RINCONES-CHAVEZ: We do, uphold

1 the Deputy Director's decision of no probable  
2 cause.

3 CHAIRMAN CARTER: All right. May I  
4 have a motion to accept that recommendation?

5 COMM. RAMOS: So moved.

6 COMM. BAYNARD: Second.

7 CHAIRMAN CARTER: All in favor?

8 COMM. RAMOS: Aye.

9 COMM. BAYNARD: Aye.

10 COMM. GIDNEY: Aye.

11 CHAIRMAN CARTER: Aye.

12 Any opposed?

13 (No response.)

14 CHAIRMAN CARTER: Do we have  
15 something from Comm. Crenshaw?

16 MS. RINCONES-CHAVEZ: I do not.

17 CHAIRMAN CARTER: Okay. We'll  
18 continue that. And in my case, Anthony Bowling  
19 versus Herman & Kittle Properties, Inc. Conner  
20 Court Apartments, my recommendation is that we  
21 uphold the Deputy Director's no reasonable cause  
22 finding. May I have a motion to accept that?

23 COMM. GIDNEY: So moved.

1                   COMM. BAYNARD:   Second.

2                   CHAIRMAN CARTER:   All in favor?

3                   COMM. RAMOS:    Aye.

4                   COMM. BAYNARD:   Aye.

5                   COMM. GIDNEY:    Aye.

6                   CHAIRMAN CARTER:   Aye.

7                   Any opposed?

8                                   (No response.)

9                   CHAIRMAN CARTER:   Thank you.

10                   New Business, we have Assignment of New  
11 Appeals.  Comm. Ramos, if you would do Samuel  
12 Idowu versus 111 Home Personal Care Agency,  
13 please.

14                   COMM. RAMOS:    I will do so.

15                   CHAIRMAN CARTER:   Thank you.

16                   And Comm. Baynard, if -- oh, no, that's  
17 it.  There's only one.

18                   We have Findings of Fact, Conclusions of  
19 Law and Order, Stefanie Barbour versus Solar Tek  
20 Energy.  May I have a motion to accept those  
21 findings, et cetera?

22                   COMM. GIDNEY:    So moved.

23                   COMM. RAMOS:    Second.

1 CHAIRMAN CARTER: All in favor?

2 COMM. RAMOS: Aye.

3 COMM. BAYNARD: Aye.

4 COMM. GIDNEY: Aye.

5 CHAIRMAN CARTER: Aye.

6 Any opposed?

7 (No response.)

8 CHAIRMAN CARTER: Is that -- did you  
9 have something to say about that?

10 MS. ALLEN: I do not. I'm here to  
11 answer any questions.

12 CHAIRMAN CARTER: Oh, okay. Were  
13 there any questions? I'm precipitous about that.

14 Which brings us to the Oral Argument. If  
15 the parties would introduce themselves, please.

16 MR. MERCER: Jay Mercer, with Mercer  
17 Belanger, attorneys for Ritter High School.

18 MR. BREMER: Frederick S. Bremer,  
19 staff attorney for the Civil Rights Commission.  
20 Today with me is the complainant, Aleesha  
21 Bullock.

22 CHAIRMAN CARTER: All right. We'll  
23 try this again now. You're both here. We can do



1 that. It's -- Cardinal Ritter has entered the  
2 objection; is that right?

3 MR. MERCER: I'm sorry? Yes, we  
4 presented the objection.

5 CHAIRMAN CARTER: So, you would go  
6 first. If you would both take 15 minutes, and  
7 then 10 minutes rebuttal time, and then there  
8 will be questions from the Commissioners, if  
9 there are any.

10 MR. MERCER: Very good. Thank you.  
11 Again, my name is Jay Mercer. I represent Ritter  
12 High School, and I'm the attorney that tried this  
13 case.

14 I wanted to explain my absence from the  
15 hearing last month. I know you were waiting for  
16 me, and I apologize, but I just did not receive  
17 notice of it. We had a new address, and so we  
18 did not receive that. It had been returned to  
19 the Commission.

20 I also have the benefit of last month's  
21 transcript, because Mr. Bremer went first and  
22 presented his side, so I do want to address some  
23 of those concerns and statements from Mr. Bremer

1 first.

2 First of all, Aleesha Bullock was not  
3 replaced by Samantha Lynch; okay? And the claim  
4 that Aleesha Bullock replaced Ms. Lynch is  
5 just -- is not correct, because Aleesha played  
6 point guard, and often the coaches would ask her  
7 to play -- or she would want to play shooting  
8 guard, but she didn't -- she didn't like bringing  
9 the ball up the court.

10 But the position of court -- point guard  
11 was replaced in the 2000 year -- 8 year that  
12 Aleesha was not on the team by a sophomore  
13 Hispanic student, Anita Hernandez. Samantha  
14 Lynch, who was the shooting guard on the team the  
15 junior year, also is the shooting guard the  
16 senior year that Aleesha did not make the team.

17 It's Samantha Lynch that it has been  
18 claimed to be the person that was placed in her  
19 position, and that was the argument that  
20 Mr. Bremer had made, and also as part of the  
21 findings, and there frankly aren't any  
22 comparisons between these two players, because  
23 one was a shooting guard, the other was a point

1 guard, and it's the point guard really that  
2 was -- Anita Hernandez that -- really outstanding  
3 performance and preparation coming into the  
4 trials.

5 Further, Ritter never claimed that the  
6 reason that Bullock was not selected for the 2008  
7 team had anything to do with Lynch. In fact,  
8 Ms. Bullock and her counsel never made that  
9 comparison in their arguments until proposed  
10 findings came out. According to Aleesha's own  
11 testimony, she maintained that Cassie Koors was  
12 the person who replaced her, and I'm not going to  
13 give you citations to the transcript, because you  
14 certainly have the opportunity to review that.

15 Now, since Aleesha played point guard, she  
16 would be compared to Anita Hernandez, who was the  
17 Hispanic student I just spoke of, and during the  
18 selection process in 2008, one of the main  
19 reasons Anita was selected was, because during  
20 the tryouts in Michigan -- they played in  
21 Michigan that summer, and then also during the  
22 summer practices and then leading up through  
23 basketball conditioning -- it was Anita who

1 really had outstanding numbers, according to  
2 Coach Clark's testimony.

3           The decision to select Anita was proven by  
4 Anita's performance in the 2008 season. In fact,  
5 her statistics were better in every category than  
6 Ms. Bullock, Aleesha Bullock, when she was  
7 playing as a sophomore in 2008, than when  
8 Ms. Bullock was playing in 2007, in every  
9 category.

10           The next point I want to make is Aleesha  
11 allegedly was not getting along with Samantha  
12 Smith [sic], and this was the reason that she was  
13 replaced, and that's why Aleesha Bullock didn't  
14 make the team. And that's absolutely incorrect,  
15 and that hasn't been argued, either.

16           Mr. Bremer said to you during your -- the  
17 hearing last time the ultimate reason for  
18 Mr. Clark's decision was because Aleesha was not  
19 getting along with Samantha Lynch, and that  
20 simply is not correct, and that's not what the  
21 record shows. Coach Clark and Coach Davis and  
22 Coach Finke and Coach Alley all testified that  
23 the tryout criteria were based on effort,

1 commitment, athletic ability, skill, off-season  
2 improvement, attitude, behavior and leadership  
3 skills.

4 Other players who testified at the hearing  
5 agreed that those were the criteria, and if  
6 you'll read Ms. Jiles' testimony, she'll say that  
7 she understood those were the criteria. Not only  
8 that, Ms. Bullock agreed in her testimony that  
9 she believed those would be proper criteria.

10 Coach Clark further testified that prior  
11 year statistics were not relevant to his decision  
12 making. He testified that the major factor used  
13 by the coach was how they were doing at the time  
14 of tryouts, which included the improvements they  
15 made during summer and off-season play.

16 Now, during the off-season, the coaches  
17 witnessed improvement in Anita Hernandez,  
18 Samantha Lynch, Katie Triplett and Nicole King.  
19 Those were the ones that Coach Clark identified  
20 had made substantial improvements over the  
21 summer.

22 Then I quote from the transcript.

23 "Unfortunately, Aleesha wasn't at summer workouts

1 very often, and I think, as I mentioned, she may  
2 have [made a little improvement], we thought, but  
3 she did not improve to the degree that we felt  
4 some of [the] other players, especially [the]  
5 younger players, [who] were improving as part of  
6 that."

7           So, the coaches had an opportunity to  
8 observe the players after the season was over.  
9 Both the findings of fact and Mr. Bremer have all  
10 been arguing the comparison should be to the  
11 statistics that Aleesha had during her junior  
12 year, but they just weren't relevant at that  
13 time, because the players were a year more  
14 seasoned, but unfortunately, Aleesha didn't move  
15 up with them.

16           Coach Clark and Coach Davis and Coach  
17 Allen [sic] and Coach Finke -- and I will point  
18 out that Coach Davis is an African-American,  
19 because I wanted you to have an understanding of  
20 that if it wasn't -- if it's not clear from the  
21 transcript -- all articulated the evaluation  
22 process, and the reason that Bullock was not  
23 selected was not because Samantha Lynch was

1 not -- was one of them. They said that was not  
2 part of their decision.

3 So, where does this whole argument that  
4 Samantha Lynch and her not getting along with  
5 Bullock comes -- why is that the ultimate reason?  
6 Why would the findings of fact suggest that?  
7 Well, this is where it comes from, and I think  
8 it's just been taken out of context.

9 During the deposition, Mr. Bremer was  
10 asking Coach Clark specifically what it was  
11 that -- why he didn't put Aleesha on the team in  
12 a limited capacity, such as a manager, such as a  
13 limited capacity, or just sit on the bench,  
14 because she would still have exposure.

15 That was the question he was asking, and  
16 what he said was basically he was concerned about  
17 the team's dynamic, that he would have one person  
18 sitting on the bench and not really being part of  
19 the team. He was concerned about that team  
20 dynamic. He was concerned that Aleesha may not  
21 get along well, and it wasn't fair to Aleesha.

22 Those are the things he was talking about,  
23 and he was talking about the fact -- and I'd even

1 quote from the transcript here, but Mr. Bremer's  
2 trying to get Coach Clark to suggest that  
3 Aleesha's relationship with Ms. Lynch was somehow  
4 involved in this, and this is -- I want to read  
5 the transcript, because it's very important.

6 Question, Bremer: "Did you understand  
7 when you were answering these questions or making  
8 these statements that I was inquiring as to  
9 whether or not...you had these meetings after the  
10 tryouts, whether or not the alternative [of]  
11 which [was] discussed much today, of letting  
12 Aleesha be a member of the team with the thought  
13 that she might...be able to play as much as,  
14 maybe, she expected?"

15 Clark answered: "[That was] considered?"

16 Bremer, question: "Yes."

17 Clark, answer: "That was considered for  
18 all the players that we cut."

19 Question, Bremer: "So in her situation,  
20 though, it looked like, and I'll ask you: Her  
21 relationship with [other members of the team] was  
22 a big factor in not letting her be on the team  
23 even in [a] limited capacity?"



1           Answer: "I think that [I] would have made  
2 [it not made for a] good team chemistry...we had  
3 that year."

4           Question: "And that weighed against  
5 [your] decision to let her [go], even though you  
6 considered it, to let Aleesha be on the team in  
7 some limited role like that?"

8           Answer: "Yes."

9           Question, Bremer: That was heavily in the  
10 mix against...her [to] do that, letting her be on  
11 the team in that capacity?"

12           Clark, answer: I don't know that I would  
13 say 'heavily'. It was a factor. When we went  
14 through leadership, effort, commitment, all the  
15 things with...the players. When the decision was  
16 being kicked around as it [was] looking as though  
17 Aleesha was not going to be able to make the  
18 team, then the thing as [the] coaches we needed  
19 to decide...as a senior, is there anything...we  
20 can [have her] do [to keep her working, to keep]  
21 her on the team, less minutes, team manager,  
22 recordkeep[er], all those things.

23           "From a team-chemistry standpoint, I don't

1 think it would have been the best thing for our  
2 team to have kept her around in a limited-role  
3 capacity. I don't believe she would have been  
4 happy with it, based on how she reacted when she  
5 was off the court and based on how she interacted  
6 with some of the other team members."

7           That is the testimony that has been taken  
8 out of context to suggest that his decision not  
9 to put Aleesha on the team was because of her  
10 team chemistry, and the team chemistry has  
11 somehow been twisted into this idea that she  
12 didn't get along with Lynch, because when they  
13 asked at deposition who did Aleesha not get along  
14 with, it so happens he identified Lynch, but I  
15 don't understand how it all comes together, and  
16 you'll have to decide for yourselves.

17           So, now the other question is: How can  
18 Samantha Lynch not be getting along with Aleesha,  
19 what they are calling the ultimate reason that  
20 Coach Clark made his decision, be it pretext,  
21 when it was never even offered as a reason? How  
22 can you have a pretext if it was never offered as  
23 a reason?

1           And again, Mr. Bullock and Mrs. Bullock  
2 have testified that the meeting with Coach Clark  
3 that they asked to hold after she did not make  
4 the team, that they remember Coach Clark  
5 identifying the following reasons: A, concern  
6 for Aleesha's commitment to play basketball  
7 because of her election to begin playing junior  
8 varsity soccer midseason during the fall of 2007  
9 and dropping out of basketball conditioning.

10           She started basketball conditioning, she  
11 didn't like it, and she went and joined midseason  
12 the junior varsity soccer team. She hadn't  
13 played soccer since seventh grade, and she told  
14 others she did it to get out of basketball  
15 conditioning. That was a concern for the  
16 coaches, and they talked to her about it.

17           Two, younger sophomore players were  
18 playing better than Aleesha Bullock at every  
19 level. Anita Hernandez proved it in the 2008  
20 season. She was better in every stat, every  
21 stat.

22           Coach Clark said he wanted to advance the  
23 younger players who were developing quicker, and

1 prepare them for a future team. That team had  
2 its best season. They were 14 and 8. The year  
3 before, they were -- I'll get to those  
4 statistics, I don't want to misquote them, but  
5 they had very poor seasons prior to that. Clark  
6 was looking to define the team, and he did define  
7 that team, and the team went on very  
8 successfully.

9 Aleesha's failure to participate in the  
10 summer workouts and conditioning was one of the  
11 things that was cited, and Aleesha says that the  
12 reason she couldn't do that is because she had to  
13 work. Well, the other girls that came to the  
14 summer practices also had summer jobs. They were  
15 able it make the commitment.

16 Need to develop younger players, and  
17 Aleesha did not play well at the Michigan  
18 tryouts. Aleesha, at the Michigan tryouts, which  
19 was during the summer, the team was there, she  
20 did not have ball control. She lost the ball all  
21 of the time, and at that point in time she was  
22 having a terrible time with ball control and  
23 bringing it up, and the coaches were very

1 concerned about that. They did not see  
2 improvement. Actually they saw her going a  
3 little backwards.

4 The next issue that Mr. Bremer pointed out  
5 and I want to dispute, he said that the proposed  
6 findings ignore the selection criteria. Well, I  
7 think Mr. Bremer and the proposed findings do  
8 ignore the selection criteria. The selection  
9 criteria is the -- he quotes, and he gave you --  
10 he listed three criteria that you should look at.

11 One was the inability to engage in  
12 competitive play, the lack of experience in  
13 competitive play, or the failure to try out for  
14 the team. Those are the three criteria that he  
15 says that you should consider. Well, this is a  
16 very oversimplistic view of what the coaches did.

17 All of these girls had the ability to play  
18 competitively, they all had some experience, and  
19 they all -- and there were some that just didn't  
20 come up. So, it wasn't a matter of whether they  
21 could play; it was a matter of what degree they  
22 could play, how -- who was the best of the best.  
23 So, I believe the criteria that Mr. Bremer

1 suggested you use is not correct.

2 Now, I want to go through the selection  
3 criteria point by point to show you what all of  
4 the coaches testified. First, effort and  
5 commitment of Aleesha. The coaches said her  
6 concern for her commitment in playing soccer  
7 during the conditioning period.

8 Two, Bullock's failure to take advantage  
9 of the summer workouts. Next, Bullock had  
10 others -- said to others that she was  
11 participating in soccer to get out of basketball  
12 conditioning, so, of course, that was a big  
13 concern to the coaches, because the summertime is  
14 when the team comes together. That's what the  
15 coaches said, when the teams come together in the  
16 summer. That's when they begin to gel, and if  
17 she wasn't there, she wasn't part of that  
18 gelling. Anita Hernandez was at every one of  
19 them.

20 Attendance records show that Bullock only  
21 attended three out of the 14 summer tryout  
22 workouts. Other girls had summer jobs also.

23 Athletic ability and off-season

1 improvement. The coaches said this: At the  
2 Michigan summer camp, they were concerned for her  
3 ball handling skills. They also said that  
4 Bullock was warned there would be consequences to  
5 her choosing soccer over basketball conditioning.  
6 They also said that Bullock's focus during the  
7 fall prior tryouts was playing junior varsity,  
8 not varsity basketball.

9 Team -- her teammate Jiles testified that  
10 Bullock's game was not consistent and had not  
11 shown improvement through the summer.

12 Attitude and behavior of Aleesha. Her  
13 teammate, Erica Jiles, testified that her  
14 attitude, quote, her attitude, she was -- she  
15 wasn't serious during tryouts. I think it was a  
16 two-day tryout, but during the whole time, I  
17 don't remember her being serious.

18 She wasn't serious about the tryouts.  
19 They never cut anybody --

20 CHAIRMAN CARTER: One minute.

21 MR. MERCER: Okay. They never cut  
22 anybody from the team before.

23 I do want to move forward to the issue of

1 damages, since I think I've maybe spent a little  
2 bit too much time on the other one, and I want to  
3 point out the issue of damages.

4 First of all, there has not been any  
5 evidence in the record that Aleesha Bullock could  
6 have competed at this level. There's no evidence  
7 in the record that she could have retained a  
8 scholarship from a Division I or Division II  
9 school. There's no expert testimony, she didn't  
10 testify that she could, nobody testified that she  
11 was able to. It's pure speculation that she  
12 could.

13 But she did play for a Division III  
14 school. And how often did she play? Not every  
15 game, and the games she did play in, she only  
16 played an average of four minutes a game. You  
17 would think that somebody who could compete and  
18 get a scholarship at a Division I or Division II  
19 school would certainly be competing at the top  
20 level and playing every minute at a Division III  
21 school, but she didn't. She was not capable of  
22 doing so.

23 There was one person who did testify with



1 regards to Aleesha's ability, and that was  
2 Ms. Jiles. Ms. Jiles did go on and get a  
3 scholarship from a Division II school, a  
4 full-ride scholarship, and it was her opinion  
5 that Aleesha did not have the skills to  
6 participate at that level, and that is the  
7 testimony in the record with regards to her  
8 ability.

9           The other thing is, Aleesha could not have  
10 the damages that have been awarded, \$75,000. She  
11 says that she's only had to take out a loan of  
12 \$25,000. That's the only amount that she's  
13 testified to. All of the other amounts are  
14 amounts that her parents have paid. So, I don't  
15 understand how this Board could possibly award  
16 damages that her parents -- her college  
17 education. She has not testified she has to pay  
18 back her parents, and Mr. Bremer even  
19 acknowledged that point in the hearing last  
20 month, so I don't think that's an issue.

21           With regards to -- okay. So, if it's not  
22 \$25,000 and she couldn't have possibly gotten a  
23 scholarship anyway, then what is the basis of the

1 award? Because the findings don't say what the  
2 basis of the award is. Well, Mr. Bremer suggests  
3 emotional damages. Well, he also conceded at  
4 last month's meeting that \$75,000 for emotional  
5 damages would be an extreme number for this Board  
6 to award, and I have to agree with him.

7 CHAIRMAN CARTER: Thank you.

8 Mr. Bremer?

9 You'll get an opportunity to say --

10 MR. MERCER: I understand.

11 CHAIRMAN CARTER: -- more after  
12 Mr. Bremer.

13 MR. BREMER: I thought it was  
14 interesting when we were waiting to do this  
15 argument today that you were voting on  
16 Commissioner Reviews of Appeals. This case has  
17 had a long history with the Commission, and one  
18 of those steps was that there was a no probable  
19 cause finding by the Director, and then a review  
20 by a Commissioner, and it tipped it in favor of  
21 it being a probable cause thing.

22 This case has had some narrow victories  
23 and points of decision, no less than today.

1 There was something that happened here, something  
2 that tipped a little bit one direction than what  
3 Mr. Mercer is insisting on.

4 What we have here is a coach explaining  
5 himself in proceedings before the Indiana Civil  
6 Rights Commission, and he has definitely  
7 identified a be-all point, a decision point, that  
8 pushed this in favor of him not letting Aleesha  
9 Bullock, here, to be on that team in any  
10 capacity.

11 There was evidence in the record that  
12 there's no limit, at least not during -- there  
13 would be in Sectionals a 13-member limit, but no  
14 limit as to the numbers that could be on the  
15 team, and he identified very clearly in his  
16 testimony that yeah, it was -- it was considered,  
17 as it would be on anyone who improved themselves  
18 in play like Aleesha Bullock had done, to take a  
19 second look at this and see whether we could just  
20 have them there some way on the team anyway.

21 And he identified the relationship with  
22 Samantha Lynch, a Caucasian team member, that  
23 there was something going on between the two of

1     them that finally pushed Aleesha Bullock out of  
2     the running and led to a decision that she was  
3     not going to be able to be on that varsity team  
4     that she had been on in the previous two seasons,  
5     both as a sophomore and as a junior.

6             She was not going to get to be on that  
7     team anymore. Samantha Lynch had been on that  
8     team with her for those two seasons. So, it was  
9     some kind of a problem with Samantha Lynch that  
10    just pushed her completely out, not allowed her  
11    to even sit there with her team.

12            What does this mean to a senior in high  
13    school? That's a time when, if we could barely  
14    remember what it was like, that it seemed so  
15    special, it seemed like everything was so  
16    significant, and if we were in this position that  
17    Aleesha was at that time, to not be able to be  
18    with your own classmates, let's just say it's  
19    almost like being put out of the school in your  
20    senior year, you've been with these people for  
21    three years. It's very emotional. So, there was  
22    emotional damage from this.

23            Her inability to really get involved in

1 trying out for basketball in schools, higher  
2 educational settings, was reflected in the  
3 evidence as due, in part, to how discouraged she  
4 was by this incident of not being able to go on  
5 and play with her team.

6 She had a very good career. She had been  
7 the leading scorer in the sophomore year, on the  
8 varsity team already in the sophomore year. She  
9 was the second-highest scorer in the junior year,  
10 leading the third-highest scorer by 84 points  
11 that season. Who was that third one? That was  
12 Samantha Lynch.

13 She was the leading person in steals in  
14 her sophomore year. There was a lot of talent  
15 there. She was described in a publication,  
16 industry publication, going into that final year,  
17 as being part of a three-person, very strong  
18 backcourt. She was praised by her own coach and  
19 published in the newspaper that she would have  
20 turned in a tremendous job as a scorer.

21 We ask the Commission to understand, this  
22 may be a very close decision as to what was going  
23 on here, but it wasn't just a matter of how well

1 you did in the summer practice and whether you  
2 just went to all of them, and which were not  
3 mandatory, by the way, anyway, nor could they be  
4 mandatory, as it turned out.

5           But it's more than that. It's a sense of  
6 expectation, a sense of promise, a sense of being  
7 severely disappointed that she was not allowed to  
8 go on and prove herself in this final year.  
9 There was nothing so bad about Aleesha Bullock,  
10 about anything that happened that summer or  
11 didn't happen that summer, that would cause this  
12 Caucasian coach to just say, "You can't even be  
13 with your friends on this basketball team for  
14 this final season."

15           But a coach who had the authority to say,  
16 "I'm not going to put in to play because you're  
17 not doing well. I'm just going to bench you."  
18 But here's a competitor and may have done very  
19 well, if given the chance on that -- on that  
20 year.

21           Now, when it came down to explaining --  
22 Coach Clark explaining why, why did this happen,  
23 in the meeting with the parents only two days

1 after it happened, he was talking about, well, it  
2 just wasn't good for the team, that he had talent  
3 in the -- who were sophomores, who were playing  
4 as well as Aleesha Bullock in her junior year,  
5 and he saw that there was a future for an even  
6 better team if he could get this talent going  
7 through at that point.

8 All of it was explained in those terms.  
9 There was discussion about summer practices and  
10 things like that as well. Not mentioned, not  
11 mentioned, was that ultimate thing that tipped it  
12 one way or the other. What was that? Not  
13 getting along with Samantha Lynch. Samantha  
14 Lynch was Caucasian. Never mentioned.

15 That's why the Complainant asks that the  
16 Commission go along with the Administrative Law  
17 Judge in characterizing Judge Clark's [sic]  
18 characterization of this as just simply team  
19 dynamics and getting a better -- getting a better  
20 team down through the years, as a pretext, if he  
21 really -- if he didn't really tell the reason  
22 that he gave once this case got into depositions  
23 and in the transcript of the hearing. He didn't.

1           Then he started talking about, when he was  
2 pressed, when he was pressed, "Well, couldn't you  
3 have just put her on bench anyway?" Questions  
4 like that. Even if he didn't let her play very  
5 much, "Why didn't you do that?" When pressed,  
6 down to that last question, a valid one, he  
7 started talking about her not getting along with  
8 Samantha Lynch.

9           Now, Samantha Lynch not getting along with  
10 her, she was a poorer scorer than Aleesha  
11 Bullock, but she got to stay on the team.  
12 Aleesha Bullock did not get to. They had  
13 interpersonal problems. Well, who's supposed to  
14 suffer, the white low scorer or the black high  
15 scorer? Who ended up being the one that ended up  
16 with all of the damage? It was Aleesha Bullock.

17           In terms of the damages, the award is --  
18 does need to be explained as to what the \$75,000  
19 is for. There is information in the order as to  
20 what -- what happened, but I would agree with  
21 Mr. Mercer, it couldn't possibly be for the  
22 parents, they were not -- what they paid for  
23 student loans to get her in -- through college,



1 that she wasn't able to pay for through a sports  
2 scholarship.

3           They were not parties to the case. Only  
4 Aleesha Bullock's figure would be relevant here.  
5 But I -- that just needs to be determined as to  
6 if that sum was for anything other than emotional  
7 distress. She -- I mean we couldn't prove that  
8 she would get a scholarship. I mean how do you  
9 prove that? She wasn't there in the final year.

10           I mean unless you had some -- I mean she  
11 was just so good -- you bring in somebody who was  
12 a professional in this area, said, "Well, there's  
13 no way she'll be a runaway. She'll get a  
14 scholarship." That's difficult to say.

15           But putting that in the findings about how  
16 much she had to spend out of her own pocket and  
17 incur in student loans and her parents did, that  
18 shows how distressing -- the impact and distress  
19 upon her, that she had hope. She came out of  
20 this thing she didn't have hope. It was all  
21 gone. She didn't even get to play with her own  
22 team.

23           Thank you.

1                   CHAIRMAN CARTER: Thank you,  
2 Mr. Bremer.

3                   Mr. Mercer, ten minutes.

4                   MR. MERCER: Thank you.

5                   Well, I'm not going to re-read Coach  
6 Clark's deposition or transcript testimony, but  
7 he clearly says that it was -- the reason he did  
8 not have -- he clearly says in there that they  
9 made a decision about new players were done.

10                  Then they looked at the ones that were  
11 going to be cut and tried to decide was it worth  
12 bringing some of them back onto the team just in  
13 a limited role, and they were concerned about  
14 Aleesha. They wanted to see -- because they knew  
15 this was going to be difficult for Aleesha and  
16 her family in her senior year.

17                  But what did he say the reason they didn't  
18 do it? He didn't say it was because she was  
19 black or because Samantha Lynch was white.  
20 Obviously there's no evidence in the record.  
21 What he said was he was concerned for team  
22 chemistry.

23                  So, let's just assume that the reason

1 Mr. Bremer says, that Samantha Lynch and Aleesha  
2 Bullock didn't get along, and he picked one or  
3 the other. Let just assume that's true; all  
4 right? Samantha Lynch was the captain of the  
5 team; okay? And if they didn't get along, what  
6 do you think it would do to team chemistry if he  
7 put somebody on the team that didn't get along  
8 with her?

9 I think there's another reason, not racial  
10 discrimination. There's another reason. You  
11 don't put people that don't get along on the same  
12 team. That just makes a lot of sense, but that's  
13 not racial discrimination. If Aleesha would have  
14 thought that she was entitled to play for a  
15 Division I team or a Division II team, you'd  
16 think she would have tried out for it. Did she  
17 ever try out for one? No, ever, no. Did she  
18 make application? No.

19 She was at Indiana Univers -- or Indiana  
20 State University, and she called them and said --  
21 and when she got there, not before, not the whole  
22 semester that she knew she was going to -- she  
23 knew where she was going to school, never called

1 the coach or anything. Once she got there, she  
2 called him and said, "Hey, can I try out?" And  
3 they said, "We'll get back to you." And they  
4 never got back to her. That's the last time she  
5 tried to get a scholarship for basketball.

6 What she testified to is that she decided  
7 to go to Trine University. Why Trine University?  
8 One is because her sister was there, but two,  
9 because they gave her a scholarship, a  
10 financial-needs scholarship. I didn't get her to  
11 testify as to what -- that amount. She said a  
12 substantial scholarship.

13 So, she chose to go where her sister was,  
14 Trine University, she didn't try out for the team  
15 at Indiana State for the next year, and she  
16 played basketball there. But in her senior  
17 year -- or junior year there -- and she was just  
18 finishing her senior year at the time of the  
19 testimony, so we don't have that -- she was only  
20 playing in a limited number of games, and when  
21 she played in a limited number of games, she was  
22 only playing for four minutes, and her statistics  
23 are not very pretty, and that's in the record.

1           Comm. Crenshaw asked a question at the  
2 last meeting, and he wanted to know, "Well, what  
3 was the season like without Aleesha?" Let me  
4 tell you. In her sophomore year, the team won  
5 one game, and 19. What did the team look like?  
6 Well, no one was trying out for the team. They  
7 didn't have cuts that year, because they had poor  
8 coaching, had a lot of coaches come in and not do  
9 a very good job.

10           So, the next year, Aleesha's junior year,  
11 2006-2007, they won 8 games and lost 14 games.  
12 Aleesha was a good scorer, but Aleesha also had  
13 some faults, and that's clearly in the  
14 statistics, and I'll go over those in a moment.

15           In her senior year, she didn't make the  
16 team, as we know. In that year, the team went 14  
17 and 8, significant improvement. Why? Because of  
18 Anita Hernandez at point guard and Samantha Smith  
19 [sic] as the team leader.

20           Comm. Baynard asked regarding -- asked  
21 Aleesha, "In your written testimony, the coach  
22 cited that you had problems turning the ball over  
23 and making mistakes," and so, wanted to know how

1 often that was. Well, she didn't give a very  
2 clear answer. When we were comparing Lynch and  
3 Bullock was that question, and she didn't give a  
4 clear answer. She said, "Well, we had about the  
5 same number of turnovers." Lynch that year had  
6 57 turnovers, Bullock had 69.

7           What other relevant statistics for the  
8 year that Lynch and Bullock played together?  
9 Lynch had 45 assists, Bullock, 22. Lynch led the  
10 team in steals with 44, Bullock, 26. Lynch had  
11 the highest free-throw percentage for the team,  
12 at 49 percent, Bullock, 32 percent.

13           Other statistics that year, comparing her  
14 to Anita Hernandez. Point guard, she as a  
15 freshman, Hernandez, her shooting percentage was  
16 30 percent, compared to Bullock's 40 percent.  
17 Her free-throw percentage was equal, but her  
18 steals were 34, compared to Bullock's 26. That  
19 was the developing player, and then she went on  
20 the next season to make -- actually have some  
21 records for the school under statistics. So,  
22 that's Hernandez.

23           Lynch was not competing for Bullock's

1 position. If you accept the fact they weren't  
2 getting along and that's why Aleesha didn't make  
3 the team, so be it, but that's not racial  
4 discrimination, because there is a valid reason  
5 for that.

6 But that wasn't the reason that the  
7 coaches cited. Every one of the coaches has  
8 given specific reasons and how they rated the  
9 students and how she wasn't serious at tryouts,  
10 how she wasn't serious in coming conditioning,  
11 how she wasn't serious by not coming -- playing  
12 junior varsity soccer. In midseason she joined  
13 that team. She wasn't dedicated to this team,  
14 and she was telling the coaches loud and clear,  
15 "I don't really care that much about basketball."

16 Well, she didn't make the team, and she  
17 was very upset about that, but she should have  
18 been serious going into those tryouts, and a  
19 different conclusion may have occurred.

20 I believe we've been able to show that the  
21 reasons given here are many: Aleesha's attitude,  
22 her inability to improve through that year.

23 There are many, many, many reasons that have been

1 given, all of which are backed up by testimony of  
2 four different coaches.

3           And what evidence do we have of racial  
4 discrimination? None. There is merely a  
5 supposition by Mr. Bremer that the only  
6 conclusion you can reach that they couldn't put  
7 her on the team in a limited capacity, as a  
8 manager, or to sit on the bench, was because they  
9 picked Samantha Lynch over her, and they're not  
10 comparable at all.

11           I respectfully say that there is no racial  
12 discrimination, there's not even a scintilla of  
13 evidence to support that, and that this needs to  
14 be reversed.

15           Thank you.

16           CHAIRMAN CARTER: Thank you.

17           Mr. Bremer, ten minutes.

18           MR. BREMER: Well, there's a lot of  
19 dispute about what was discussed at that meeting  
20 with the parents two days after Judge -- or Coach  
21 Clark decided not to let Bullock be on the team,  
22 but one of the things that was very clear,  
23 Mrs. Bullock asked Coach Clark, "Is there any way



1 she can be on the team, even to just sit on the  
2 bench if she doesn't play well?" And he  
3 acknowledged that there was an inquiry like that.

4 Now, we're not saying that Samantha Lynch  
5 was chosen over Aleesha Bullock for the  
6 particular position he had in mind for the team.  
7 We're comparing the shooting records of both  
8 contestants, both team members, and we're saying  
9 that there was something about the situation that  
10 did cry out for an explanation. It's a prima  
11 facie case. Something was going on here that was  
12 not right.

13 The -- there was -- a tremendous  
14 difference was being made about Aleesha Bullock  
15 being on this team and Samantha Lynch getting to  
16 be on the team. Aleesha Bullock didn't get to  
17 get on the team.

18 So, we're saying when there was a great  
19 opportunity for Coach Clark to tell Momma, "Look,  
20 she doesn't get along with Samantha Lynch.  
21 Samantha Lynch, even though she's played  
22 basketball with her continuously on teams since  
23 the fourth grade, I have come to the conclusion

1 that she does not get along with Samantha Lynch,  
2 and therefore, we cannot let her be on the team  
3 with her friends during her senior year."

4 He didn't say that. He didn't explain  
5 that. Why? Why did he just give this other  
6 thing about, "Well, I just see that I can get  
7 these other people to make a stronger team.  
8 They're younger, I'll have them longer, and  
9 that's the reason why."

10 That's the stuff of pretext. If that was  
11 what was in his mind as to that last analysis,  
12 just to get her on the bench, just to get her on  
13 the bench again for that final year, he says she  
14 didn't get along with Samantha Lynch. If that  
15 was it, why didn't he tell Momma when she was  
16 asking, when she was pressing it to that degree?

17 She was pressing it to the degree of  
18 saying, "You wouldn't have to let her play very  
19 much even. Can't you just let her be on the team  
20 in some capacity?" He didn't tell her anything  
21 about that. He didn't tell Mr. Bullock. They  
22 were both there. And this was when all of this  
23 reason -- all of these reasons should have been

1 very prominent had his mind. I mean they had a  
2 meeting at which he could explain himself, and  
3 they did press him with questions.

4 Now, she said, Aleesha Bullock said, on  
5 page 88 of the transcript, that she avoided  
6 trying out for the college teams where she  
7 eventually went. She went for a while to Indiana  
8 State University, and then to the division with  
9 Trine. She explained why. She said she avoided  
10 trying out to be on college basketball teams out  
11 of the fear of just being rejected again, to her  
12 humiliation.

13 It had an effect on her that wasn't just  
14 sadness because of not being able to be on the  
15 team, but she -- this carried through, in what  
16 she was -- maybe would have been able to do it  
17 ordinarily, but she had been rejected, and you  
18 know that's not a pleasant experience, and it  
19 wasn't for her, and it played out in her life.

20 She went on, went to school, did not get  
21 the scholarship, incurred student loans like so  
22 many do, always, I'm sure, wondering what would  
23 have happened had she just been given a chance to

1 improve herself.

2 Her parents were very interested in this  
3 young lady. They came to all of the games, they  
4 hauled the food, they hauled the kids, they did  
5 all of the things that -- not just fans of their  
6 daughter, but they were more or less like parents  
7 of the team in terms of some of the stuff they  
8 were doing.

9 They were accessible to Coach Clark. He  
10 never approached them and said, "Hey, she's not  
11 coming to summer practice. Do you know about  
12 that? Do you know how that could affect her?"  
13 Nothing was said like that. They were just  
14 getting a bolt out of the blue, and they were  
15 more shocked, I think, than Aleesha was.

16 This is -- this is a matter that's -- it  
17 seems small. It seems like, "Well, you know,  
18 it's just kids playing on a basketball game --  
19 basketball team," but it's big. It's a big  
20 thing, and especially if it is something that  
21 lines up with the possibility that there was  
22 racial discrimination. There's something about  
23 these facts that could be consistent with that

1 conclusion.

2           As you know, we don't have a way to get  
3 inside the minds of everybody to know whether  
4 there was a racial motive involved in it, but  
5 there's a framework that we go through, and then  
6 when it comes to the last thing, if it doesn't  
7 stand up, that reason doesn't stand up to  
8 analysis, it's like, "You're giving one reason  
9 and then you come later and you say something  
10 else. Why didn't you just tell the mother then  
11 what the reason was?"

12           Thank you.

13                   CHAIRMAN CARTER: Thank you,  
14 Mr. Bremer.

15           Are there questions?

16                   COMM. RAMOS: I have two questions.  
17 Is there -- and I can't remember all of the  
18 elements that were in the documentation, but was  
19 there any evidence that indicated that the coach  
20 or coaches worked with -- and you had mentioned  
21 this a little bit --

22                   THE REPORTER: Could you repeat that?

23                   COMM. RAMOS: Sure.

1           Is there any evidence in documentation  
2 that references the coaches working with Aleesha  
3 to talk about the summer program, "Why aren't you  
4 there?" Because any outstanding coach will  
5 always work with their kids to make sure that  
6 they're on track, to help to guide them, and then  
7 talk with the parents frankly. Is there anything  
8 in there that really addresses that they had made  
9 effort to help?

10           MR. MERCER: Two days after she  
11 started soccer practice, Coach Finke and Coach  
12 Clark approached her and had a meeting with her,  
13 and they asked her why it was that she had  
14 selected soccer over basketball conditioning that  
15 had just started, and she said it was because it  
16 was her senior year and she wanted to have fun.

17           And they said to her that there are other  
18 players on the team who in fact were getting  
19 better, and it was very competitive at the guard  
20 position this year, that they were going to have  
21 to cut some people, and that they were very  
22 concerned with her commitment in playing on the  
23 junior varsity soccer team midway through the

1 season -- this want even the varsity soccer  
2 team -- junior varsity soccer team, to have fun,  
3 and they told her that there may be consequences  
4 as a result of that, and she decided to play  
5 junior varsity soccer.

6 MR. BREMER: And there was no  
7 approach to the parents -- that was part of your  
8 question -- as to that episode.

9 MR. MERCER: Actually that's a  
10 disputed issue of fact. Coach Clark said that  
11 after -- that same evening, Mrs. Bullock called  
12 him while he was at school, and he went to the  
13 office and returned that phone call and told her  
14 about -- because Aleesha came home very upset  
15 about him talking to her about the soccer.

16 And at the hearing, he testified to that  
17 conversation. Ms. Bullock -- Mrs. Bullock, her  
18 mother -- testified it never happened. So, it's  
19 a disputed issue of fact.

20 COMM. RAMOS: The reason to do the  
21 summer -- the soccer camp, can you -- can you  
22 explain the logic behind doing summer camp verses  
23 the --

1                   MR. BREMER: Yes. Conditioning is  
2 conditioning. It's athletic activity. The  
3 students in these schools were encouraged to be  
4 in more than one sports program. There was --  
5 and it wasn't any big crime to be both in the  
6 basketball program and the soccer program. The  
7 seasons don't overlap by very much, in fact,  
8 maybe not at all.

9                   And so, she was out there physically  
10 conditioning herself, it was a very rigorous game  
11 of soccer, taking part in that. She had played  
12 soccer earlier in her school career, like in  
13 grade school, quite a bit. So, it wasn't  
14 something un -- she knew that she had to have  
15 exercise.

16                   She was -- she was doing something. She  
17 thought she was doing the strenuous things that  
18 she should do to gain conditioning, and the  
19 schools do not make you go to any of these  
20 practices, as a matter -- as a mandatory course.  
21 She didn't have to go out for the soccer program,  
22 but she was getting her conditioning, and she  
23 believes in that situation.



1                   COMM. RAMOS:  Doesn't Ms. Bullock  
2 acknowledge the conversation with the coaches and  
3 the dialogue relating to, you know, their concern  
4 that she is not necessarily maybe in that right  
5 field, she should be on the -- in basketball?

6                   MR. BREMER:  May I have her speak to  
7 that?  I can't recall what she said.

8                   MS. BULLOCK:  When Coach Clark came  
9 and talked to me, it was more just like, "Oh, we  
10 heard you're playing soccer."  It wasn't like a  
11 big issue.  I think it was actually the soc --  
12 the varsity soccer coach, so it wasn't like, "I  
13 can't believe you're doing this.  Why would you  
14 do this?  There's going to be consequences."  I  
15 was never told that there would be consequences  
16 or threatened of being cut.  They never really  
17 communicated that with me.  It was just, "We  
18 heard you joined the soccer team.  Is this true?"  
19 Like that's all it was.

20                   MR. MERCER:  If I might also answer  
21 those questions, the hand -- the student handbook  
22 that was introduced into evidence specifically  
23 says, "All summer activities are voluntary, but

1 are highly recommended for the success of our  
2 athletic program. Every athlete should plan to  
3 attend as often as possible."

4 And the reason for that is because IHSAA  
5 doesn't allow for organized practices during this  
6 period of time, so schools have these unorganized  
7 practices, and this is the way the school is  
8 influencing the students to come. It was very  
9 clear to Ms. Bullock that she was to be in  
10 basketball conditioning.

11 The other thing that I would testify to is  
12 the coaches -- this question was asked by  
13 Mr. Bremer and also by me, you know, "Is  
14 basketball conditioning and soccer conditioning  
15 the same, or playing soccer?" The answer was no.  
16 There was very specific things they did at  
17 basketball conditioning. There were skills. She  
18 needed to work on these skills, and playing  
19 soccer was to her detriment.

20 Also, Ms. Bullock's testimony right now is  
21 inconsistent with her testimony during her -- or  
22 what's in the transcript.

23 COMM. RAMOS: How many people were on

1 the basketball team?

2 MR. MERCER: I don't recall how many  
3 were on the basketball team, but it is a question  
4 I wanted to address, because Coach Clark did talk  
5 about that issue, and he explained that he had an  
6 up-and-coming team. He had some very good  
7 younger players he was wanting to develop. He  
8 ended up being coach of the year. He was coach  
9 of the year.

10 I mean this was -- he really had an  
11 outstanding team and they went to Sectionals.  
12 So, I mean he really did what he promised he  
13 would do, and so his explanation as to why they  
14 didn't have Aleesha come onto that team is, even  
15 if she played a minute in a game, that was a  
16 minute that one of the up-and-coming stars didn't  
17 have to play, because there can only be five  
18 people on the court at a time.

19 So, it doesn't matter how many people that  
20 are on your team. If they are the up-and-comers,  
21 you play them all of the time if you can, and any  
22 minute they're not on than basketball court is a  
23 time that they don't have an opportunity to play,

1 and that's how he explained it in his deposition  
2 and in testimony.

3 MR. BREMER: There was evidence that  
4 we put in of several of the games during the  
5 season where the players -- there were players  
6 that were absent. There were plenty of  
7 opportunities to send someone like Aleesha into a  
8 game during that season.

9 COMM. RAMOS: I have no further  
10 questions.

11 COMM. BAYNARD: I want to go back to  
12 the conditioning. What does basketball  
13 conditioning consist of?

14 MS. BULLOCK: The time that --

15 CHAIRMAN CARTER: Excuse me. If  
16 we're going to consider Ms. Bullock's testimony,  
17 we have to swear her in.

18 So, would you raise your right hand, I  
19 guess?

20 (Aleesha Bullock sworn.)

21 CHAIRMAN CARTER: Okay. Is that  
22 enough?

23 MS. ALLEN: Yes. Thank you.

1                   CHAIRMAN CARTER: Thank you.

2                   Back to Barry.

3                   COMM. BAYNARD: Okay. So, the  
4 question is: What does basketball conditioning  
5 consist of?

6                   MS. BULLOCK: The basketball  
7 conditioning at the beginning of the school year;  
8 is that what you mean? Like the --

9                   COMM. BAYNARD: Uh-huh.

10                  MS. BULLOCK: Those conditionings  
11 were just running. You would -- or we would run  
12 around the neighborhood, or we would have gone to  
13 the Garadini [phonetic] track and we'd just run  
14 up and down that. So, the conditioning right  
15 before the season began was just strictly  
16 running, and we might do like different sprints  
17 or something, but it was just mostly running.

18                  COMM. BAYNARD: Now, is the reason  
19 why it was mostly running is because the ISHAA  
20 [sic] does not allow to you touch a basketball --

21                  MS. BULLOCK: Right. You can't --

22                  COMM. BAYNARD: -- until the  
23 basketball season actually opens?

1 MS. BULLOCK: Right. You can't --  
2 there's rules against like organized practices,  
3 so if he was in the gym while we were doing  
4 drills or something like that, that would be  
5 illegal, so it just mostly running, because it  
6 would have been illegal for us to be in the gym  
7 with him doing drills and scrimmaging and stuff  
8 like that.

9 COMM. BAYNARD: So, how does that  
10 compare to playing soccer? The soccer season and  
11 basketball season are different seasons; correct?

12 MS. BULLOCK: Correct.

13 COMM. BAYNARD: So, while soccer  
14 season's in full force, basketball season has not  
15 quite started?

16 MS. BULLOCK: Correct.

17 COMM. BAYNARD: And the basketball  
18 season is actually in just the preseason and  
19 conditioning; correct?

20 MS. BULLOCK: Yes.

21 COMM. BAYNARD: So, how does it  
22 compare?

23 MS. BULLOCK: With soccer? I was

1 running a lot. We had practice every day. With  
2 conditioning, I think conditionings maybe were  
3 two or three times a week. With soccer, I had  
4 practice every day, and if I did not practice, I  
5 had a game. You only have one day off a week.  
6 So, I was always running. I started -- when I  
7 joined the team, immediately I started. It  
8 wasn't like -- I played midfield, so I was  
9 running, helping out on defense and playing  
10 offense, so it wasn't like I was just sitting  
11 back and not doing conditioning. I had practice  
12 or games, and I was constantly running.

13 COMM. BAYNARD: So, midfield  
14 position, that allows you to run --

15 MS. BULLOCK: Both sides.

16 COMM. BAYNARD: -- both sides of the  
17 field --

18 MS. BULLOCK: Right.

19 COMM. BAYNARD: -- correct?

20 MS. BULLOCK: Yes.

21 COMM. BAYNARD: Okay. Why did you  
22 choose soccer in your senior season? I know some  
23 kids, in their senior season, decide to maybe

1 take up something they might miss out on. Is  
2 that the reason why you chose soccer --

3 MS. BULLOCK: Yes, it was --

4 COMM. BAYNARD: -- or was there  
5 another reason?

6 MS. BULLOCK: -- part of the reason.  
7 A lot of my closer friends had played soccer, and  
8 they needed people. They asked me to play, and I  
9 was more than willing to play. I felt that it  
10 wouldn't hurt me any, it could only help me,  
11 because I was still conditioning, I was actually  
12 conditioning more, and I would be involved in  
13 something, so I felt that it would benefit me  
14 also.

15 COMM. BAYNARD: Okay. Thank you.

16 COMM. RAMOS: Mr. Mercer, you  
17 indicated that the coach and coaches had  
18 indicated that the other sophomores were  
19 advancing more in the summer, and yet they're not  
20 even playing basketball, they're just running.  
21 How do you make that determination when they're  
22 not touching a ball?

23 MR. MERCER: Well, they were doing



1 summer practices, and they did go to Michigan for  
2 a camp, and it was primarily at the Michigan  
3 camp, where they played like 14 or 15 games, that  
4 the coaches really showed -- it showed how much  
5 the other players were advancing, and that's his  
6 testimony to that.

7 COMM. RAMOS: Okay.

8 CHAIRMAN CARTER: Comm. Gidney, do  
9 you have any questions?

10 COMM. GIDNEY: I have no questions.

11 CHAIRMAN CARTER: Any other  
12 questions?

13 (No response.)

14 CHAIRMAN CARTER: Hearing none, thank  
15 you for your presentations, and you'll be advised  
16 of our determination in due course.

17 MR. MERCER: Thank you for your  
18 consideration.

19 CHAIRMAN CARTER: And in our agenda,  
20 we have no Oral Argument -- I mean we have no  
21 Consent Agreements, which I guess brings us to  
22 the Administrative Update.

23 (Oral argument participants left.)

1 MR. SMITH: Good afternoon.

2 CHAIRMAN CARTER: Good afternoon.

3 MR. SMITH: We have -- just a second.

4 (Pause in proceedings.)

5 MR. SMITH: Okay. A few things in  
6 the Administrative Report to go over, some of the  
7 normal pieces, a lot of the outreach. The agency  
8 is still very active. In fact, we have a few  
9 things, as we close out the calendar year, that  
10 we'll be involved in, including what we call the  
11 Resource Fair that we'll be putting on in  
12 South Bend next week, 21st, which, I believe, is  
13 a Thursday.

14 The idea there is to partner, very similar  
15 to what we've done over the past couple of years  
16 with many of the community organizations as well  
17 as state organizations, to make sure that we  
18 introduce and/or provide resources to that  
19 specific community, as many of those resources as  
20 we can. So, we're going to continue to do that.

21 We will also be having the agency retreat.  
22 We'll do -- we'll focus on a lot of the training  
23 for the staff, including some of the -- what I

1 consider to be our facility skills: Customer  
2 service, crisis management, things of that nature  
3 that we'll do. That date is in mid-December.  
4 We'll try to get it away from Christmas,  
5 obviously, but a little bit away from  
6 Thanksgiving as well.

7           And then we'll close out the year. I  
8 think you guys will be pleased with the amount of  
9 activity that we've done for the year.

10           That leads me to the report. I e-mailed  
11 it to the commission, I think, yesterday  
12 afternoon. If you haven't had an opportunity to  
13 take a look at it, I'd like to just point out a  
14 couple of things. The report itself outlines all  
15 of the activity that the agency has been involved  
16 in throughout the year.

17           The first few pages are just kind of  
18 standard that describe and outline what the  
19 agency is and does, for those who may not know.  
20 Outlines the agency functions, et cetera, as well  
21 as agency programs and the makeup of the agency  
22 as a whole.

23           The e-mail version of this also, if you

1 would look at the bottom of page 7, will outline  
2 the Commission meetings, and there's an  
3 attachment, a link, there that if you click on  
4 will take you to the minutes, so you guys will  
5 have the extended minutes, not just the  
6 antiquated version, but the extended minutes for  
7 the Commission meetings, so you guys will have an  
8 opportunity to review those as well.

9           Moving forward, one of the things that we  
10 wanted to make sure we outlined was the amount of  
11 activity as broken down throughout the state.  
12 Comm. Ramos pointed out specifically, for  
13 example, Region 6, who has had quite a bit of  
14 activity throughout the year. Obviously  
15 Region 5, which is kind of Central Indiana, which  
16 involves Indianapolis, which is the bulk of a lot  
17 of our activity, is there.

18           But one of the reasons why this section is  
19 so important is that it will help us kind of map  
20 out -- or more specifically map out -- what we do  
21 moving forward. As we've spoken of before, when  
22 we were engaged in the testing program, we'll  
23 continue to do outreach programming as well as

1 events, and the amount of activity, or lack  
2 thereof, will give us some insight as to what  
3 parts of the state the agency is most needed.

4 So, this -- this information is extremely  
5 vital, and I'm glad that the staff was able to  
6 capture this information moving forward.

7 Any questions so far on the report?

8 (No response.)

9 MR. SMITH: Moving to the following  
10 page, 9, it talks about a few things to note.  
11 Obviously, the number of complaints that  
12 ultimately end up drafted as well as formalized  
13 and by way of our agreements with the EEOC and  
14 HUD, how that activity influences the agency as  
15 well.

16 But two of the areas that we grade, if you  
17 will, the agency's proficiency, which are age  
18 cases as well as open cases are there as well.  
19 Proud to say that the age case percentage remains  
20 extremely low, zero in most cases. Employment  
21 hovered around three percent, which is relatively  
22 low. Our target is 15 or below.

23 Education is five. I always put an

1 asterisk next to education only because you deal  
2 with a lot of time line issues, if someone files  
3 a complaint as it relates to a school, we have to  
4 go with that school year. Obviously if it's  
5 anywhere close to May or June, you're likely not  
6 to get any activity until that following August  
7 or September, when school actually kicks back in,  
8 because of summer vacation.

9           The same thing holds true for all of the  
10 holiday vacations, Christmas vacations, spring  
11 vacations, et cetera. So, those always depend on  
12 how we get responses back from the respondent  
13 there, which would be the schools. But in the  
14 areas -- and even that remained at five percent,  
15 so we're pretty excited about meeting that  
16 target, obviously.

17           The following few pages just outlines a  
18 lot of the activity that we've had as a way of  
19 outreach. Of course, as I've reported at  
20 previous Commission meetings, we focus on  
21 everything from radio and TV PSA's, press  
22 releases, our video, our interviews throughout  
23 the state. We've had a lot of paid as well as

1 in-kind media touches.

2 We have -- are involved in the whole  
3 social media phase of things as well, so we've  
4 got Facebook, we've got Twitter. The staff is  
5 utilizing those as well. We have our direct  
6 mailings that we put together in-house and make  
7 sure that we get out, and we use some targeted  
8 mail that's specific to the communities that  
9 we're going into, so we're excited about that.

10 And then it outlines how all of that ties  
11 into our Strategic Plan, which you guys approved  
12 at the beginning of last -- of this year, excuse  
13 me, and it talks about what those main objectives  
14 were, how all of the outreach and all of the  
15 community involvement has helped the agency to  
16 achieve what those objectives were.

17 COMM. RAMOS: What it doesn't show is  
18 your sample size.

19 MR. SMITH: Sample size, the way that  
20 is articulated, if you look at page 10.

21 COMM. RAMOS: Nine hundred and -- I  
22 see.

23 MR. SMITH: And the sample size is

1 actually fairly large, and we broke it down based  
2 upon what that specific outreach would have been.

3 COMM. RAMOS: Okay.

4 MR. SMITH: So, if the activity was  
5 advertising by way of radio or TV PSA's, we held  
6 it around 700. Forty-two thousand for media  
7 communications, including our Web site touches  
8 and things of that nature, and then the Web-based  
9 communication was around nineteen and a half  
10 thousand for that.

11 And if you fast forward to -- well, then  
12 11 and 12 goes through that Strategic  
13 Objectives 1, 2 and 3. It talks about measuring  
14 and outcomes of those -- of those three areas.  
15 Specifically, if you go down to Key Performance  
16 Indicators, move from page 12 to 13, it touches  
17 on how we progressed from last year to this year  
18 and what those -- what that activity looks like  
19 in terms of what the agency has done in the  
20 subsequent year.

21 And then our anecdotal results, which come  
22 by way of the surveys that we send out whenever  
23 we are doing our outreach, whether that be



1 on-line or in person as we travel throughout the  
2 state. You can see what a lot of that feedback  
3 has been. I just wanted to touch on a few things  
4 in regards to that, and it's really telling, some  
5 of the feedback we've gotten. Still a lot of  
6 work to do, but we have made some progress.

7 Two of the main goals of the Strategic  
8 Plan were -- well, to eliminate discrimination  
9 was one, and then to, by way of increasing the  
10 visibility of the agency being point two. Some  
11 of those things stand out. One of the first  
12 questions was, "Does discrimination remain an  
13 issue in your community?" In terms of those who  
14 say they definitely agree with that being an  
15 issue, it dropped a little bit, so we're excited  
16 about that. Still 40 percent is, I would  
17 consider, relatively substantial, so again, a lot  
18 more work for the agency to do, but there is some  
19 improvement there.

20 Remaining -- the same thing goes when we  
21 were -- when we asked, "Does discrimination  
22 remain an issue in the State of Indiana?" We  
23 dropped a little over ten percent for that.

1 Still, 50 plus percent is a substantial  
2 percentage for those who consider discrimination  
3 throughout the entire state as an issue, you  
4 know, a high percentage, but take pleasure in the  
5 fact that there is some improvement there.

6 Then some understanding, I thought there  
7 was a really big jump in the understanding of  
8 what the agency, the Indiana Civil Rights  
9 Commission, is and does. That jumped from 11 to  
10 25 percent, which I thought was extremely good in  
11 terms of the jump in the percentage of people who  
12 actually understood who we are and what we did.

13 The same thing for an understanding of the  
14 laws that govern our jurisdiction. It jumped  
15 from 17 to 30 percent, roughly.

16 A small percentage in terms of those who  
17 say that they've ever been discriminated against.  
18 That's still hovering a little over 50 percent,  
19 so we need to look at different ways to address  
20 that as well.

21 And then one of the telling things I think  
22 directly correlated to the amount of outreach  
23 that we've done is what people said or who people

1 said they would contact assuming they faced  
2 situation, and we jumped up to 44 percent from 32  
3 percent. I think it's interesting to note the  
4 drop in the number of those who said they would  
5 contact their local commissions. That's probably  
6 a direct correlation to our activity in certain  
7 areas as well.

8           So, we're excited about some of those  
9 numbers. Again, admittedly, there's a ton of  
10 work to still do, especially as it relates to  
11 discrimination, not just here in Central Indiana,  
12 but throughout the state, and what the agency  
13 will do is we'll keep involved and adapting,  
14 figuring out ways that we will be able to be more  
15 present and work at that effort.

16           The report is sandwiched with some updates  
17 as it relates to the Cultural Commissions that we  
18 oversee as well, and kind of a condensed version  
19 of the reports that they put out, which will also  
20 be on-line that talks about some of their  
21 objectives and strategic goals that their  
22 commissions agreed upon.

23           And we include those because ultimately

1 they are a reflection of the overall objectives  
2 of the Civil Rights Commission, so they are  
3 included there as well, including the MLK  
4 Commission, which is no stranger to the agency,  
5 and continuing to do well in their efforts.

6 So, long story short, all in all, really  
7 good feedback in terms of the tangible as well as  
8 the qualitative data that came back from the  
9 report, so we're excited about the work that the  
10 agency is doing, as well as the staff, and it's  
11 good having you guys involved as much as you are,  
12 and we're looking to improve even more in the  
13 subsequent months.

14 And we will have the updated Strategic  
15 Plan at the beginning of the year, in January,  
16 for you guys to review and approve. So, I submit  
17 to you the Fiscal Year 2013 Annual Report for the  
18 ICRC for you guys to approve, unless there's any  
19 additions, omissions or amendments, or any  
20 questions, for that matter.

21 CHAIRMAN CARTER: Do you want us to  
22 vote on approving it?

23 MR. SMITH: Yes, you need to approve

1 it. Once approved, we will submit this, not only  
2 on-line, but it needs to be sent to the General  
3 Assembly as well as the Governor's Office.

4 CHAIRMAN CARTER: May I have a motion  
5 to approve?

6 COMM. RAMOS: So moved.

7 COMM. GIDNEY: Second.

8 CHAIRMAN CARTER: All in favor?

9 COMM. RAMOS: Aye.

10 COMM. BAYNARD: Aye.

11 COMM. GIDNEY: Aye.

12 CHAIRMAN CARTER: Aye.

13 Any opposed?

14 (No response.)

15 MR. SMITH: Thank you.

16 Lastly, we have --

17 COMM. RAMOS: A comment --

18 MR. SMITH: Yes.

19 COMM. RAMOS: -- on this. I thought  
20 it was done very well, very professional, and I  
21 work with a lot of business kind of stuff, and I  
22 thought it was done, you know, kind of very high  
23 caliber, so I commend you, the Commission and the

1 staff for helping to pull all of that together.  
2 Outstanding. The success is what we would  
3 expect, and you delivered and exceeded some  
4 expectations, so thank you for the great work you  
5 all do.

6 MR. SMITH: Thank you. I certainly  
7 appreciate that, and we'll send that message to  
8 the staff as well, so I certainly appreciate  
9 that.

10 Any other questions or comments before we  
11 move on to the next piece?

12 (No response.)

13 MR. SMITH: We have a few proposals  
14 that we need to present, and I'll have our  
15 General Counsel, Ms. Haynes, to come up and give  
16 you the legal stance on stuff. In short, I  
17 think, in layman's terms, for those of us who  
18 didn't spend a million years in college and legal  
19 school, the agency consistently receives requests  
20 from multiple respondents --

21 Is that correct?

22 MS. HAYNES: Yes.

23 MR. SMITH: -- to extend the amount

1 of time given to respond. Now, statutorily, I  
2 believe, you can come on up Akia, and you can  
3 talk a little more about this. The Commission is  
4 responsible for reviewing and/or allowing said  
5 time, but I think the idea behind what we're  
6 proposing is that, because these happen so  
7 frequently, it would be, I think, in the best  
8 interest of -- well, for efficiency's sake, if  
9 nothing else, for the Commission to delegate  
10 those hours, if you will, to the Executive  
11 Director, to be delegated to the proxy General  
12 Counsel or staff, depending on the circumstance,  
13 to make sure that this flows as smoothly as it  
14 should.

15 So, Akia, I'll leave that to you, and if I  
16 messed up at all, you can fix it before you go.

17 MS. HAYNES: Thank you.

18 So, pursuant to 910 IAC 1-2-7(f), the  
19 Chair of ICRC, the Vice-Chair, or any  
20 Commissioner, for good cause, may extend the time  
21 within which a party may file an answer to a  
22 complaint, and as you guys are aware, we've used  
23 this process before.

1           However, as the Executive Director has  
2 mentioned, we frequently receive these requests  
3 for enlargements of time, and for purposes of  
4 efficiency, we thought it may be best to have  
5 that power delegated to the Executive Director,  
6 or his designee, to make these determinations.  
7 Therefore, you will not be inundated with these  
8 constant requests to extend time.

9           Now, the Governor of Indiana, pursuant to  
10 Indiana Code Section 22-9-1-8, selected and  
11 appointed an Executive Director to serve as the  
12 secretary of the Commission and Chief  
13 Administrative Office of the ICRC. Moreover, as  
14 the ICRC has deemed it necessary to appoint the  
15 Executive Director or a designee to make  
16 determinations regarding motions for extension of  
17 time to file and answer to a complaint.

18           Therefore, we are request -- we are  
19 respectfully requesting that you vote on whether  
20 you deem this to be fit, and this order would  
21 supersede prior orders that have stated that that  
22 power to enlarge time is retained with the  
23 Commission.



1                   CHAIRMAN CARTER:  Anyone see a  
2 problem?

3                   COMM. RAMOS:  I find it strange that  
4 it was even set here, but do we have any history  
5 on the reason for it, that it was originally set  
6 so that the Commission would have that authority?  
7 I'm just trying to understand historically what  
8 the premise was around it.

9                   MR. SMITH:  That was written in the  
10 law, and in spirit of full disclosure, I think  
11 maybe an internal policy was inserted, if you  
12 will, where the staff was just kind of generally  
13 giving permission or extending those timelines,  
14 but technically, by law, they're supposed to be  
15 given instead to the Commission.

16                   And I think, just -- hindsight's always  
17 20/20, but looking back, my guess is because  
18 there's so many and the requests are so frequent,  
19 in lieu -- and the Commission meetings are only  
20 monthly, so in lieu of bombarding the Commission  
21 was e-mails about the requests for extensions of  
22 time, they just used best judgment.

23                   But to stick to what the law says, we want

1 to make sure that what we are doing is, not just  
2 with this piece, but looking at the overall  
3 operating procedures for the agency and looking  
4 at every step of the way that one comes in and/or  
5 goes out, and we want to make sure that every T  
6 is crossed, I is dotted, and that things are  
7 etched in stone.

8           The process is what it is, and so that  
9 there's no deviance from what that procedure  
10 should be; right? And so, in doing so, this is  
11 one of those that as we put together the standard  
12 operating procedures for the agency, that we  
13 can't move forward, by law, without the blessing  
14 of the Commission.

15           The other side to this is, if you guys  
16 choose, we send out requests to you, and in hopes  
17 that you can get back to us as to whether we  
18 grant or deny the extensions. So, does that make  
19 sense? It was a little bit of rambling.

20           COMM. RAMOS: Yeah, it does.  
21 Ultimately, the request is from the Claimant.

22           MR. SMITH: Respondent.

23           CHAIRMAN CARTER: Respondent.

1                   COMM. RAMOS: Respondent.

2                   MR. SMITH: So, they'll say -- you  
3 know, we'll send out a -- what? What are they  
4 responding to?

5                   MS. HAYNES: So, by statute, once the  
6 complaint is actually sent out to the respondent,  
7 they have a set period of time in which to  
8 respond. Usually they'll allege, "Well, we  
9 didn't quite have enough time to do that. May we  
10 have another 10 days or 15 days?" At which  
11 point, according to the statute, we should  
12 therefore send that request to you, but  
13 internally we have been making those  
14 determinations, because in the interest of  
15 efficiency, we have to, to keep the ball moving.  
16 This also applies in cases -- well, actually, it  
17 just primarily applies to that.

18                   COMM. RAMOS: I call for the  
19 question.

20                   MR. SMITH: I think we typically  
21 grant them, too.

22                   MS. HAYNES: Yes.

23                   MR. SMITH: I think it's rare that

1 the staff has not. However, I have been a little  
2 bit more -- in my grasping more of what that  
3 process looks like, have told the staff, you  
4 know, there should be a little bit more of a  
5 stringent decision, if you will, as to whether we  
6 grant those -- or grant the time. Sometimes  
7 what's asked for seems to be a bit extreme, it  
8 seems more of an attempt to -- to -- I don't want  
9 to say avoid the Commission's orders, but maybe  
10 to sidestep or to delay what it is we're trying  
11 to do.

12 So, in light of that, I want to mention  
13 that it's to make the process -- keep the process  
14 in line, that it is black and white, and everyone  
15 understands how that process should work, so that  
16 there is a process for which a complaint comes in  
17 or a request comes in for an extended amount of  
18 time, and that it is consistent among all of the  
19 complaints that come into the agency.

20 COMM. RAMOS: Yeah, we wouldn't want  
21 to have discrimination within the house.

22 MR. SMITH: No. Well, and especially  
23 in light of what I am actually asking the staff

1 to do, which is, you know, rethink giving those  
2 extensions. You know, they kind of play into,  
3 you know, our statute of limitations limit the  
4 amount of time that we have to investigate cases,  
5 the amount of time the complainant has for that  
6 complaint to be finalized.

7 Our investigators are held to a standard  
8 in terms of how long they have to investigate a  
9 case and how long that case should remain open.  
10 Our intake specialists are held to a standard in  
11 terms of, you know, how long they get to do, you  
12 know, what they do. So, these requests affect  
13 all of that.

14 And I -- we are what I consider to be a  
15 domino agency, and once one domino is knocked out  
16 of line, it affects the entire agency. So, you  
17 know, as I'm requesting agency -- or the staff to  
18 really take a serious look at whether we should  
19 be granting these requests, before we go down  
20 that road, I want to make sure that, you know,  
21 all of the things are documented and the process  
22 is as lock step as it can be.

23 CHAIRMAN CARTER: So, is what you

1 want us to vote on less specific than for us to  
2 agree that you, as Executive Director, or  
3 whomever you choose, can be the one to grant, as  
4 opposed to us can be the ones to grant,  
5 et cetera, et cetera?

6 MR. SMITH: That's exactly what it  
7 is. What I'm asking you guys to vote on is to  
8 basically relay that authority to the Exec -- it  
9 may not be -- whomever the Executive Director is,  
10 but relay that authority to the Executive  
11 Director, who can then extend that extension or  
12 grant that request, or relay that to a designee.

13 CHAIRMAN CARTER: May I have a --

14 MR. SMITH: And in my opinion, what  
15 I'll do is just, so that you guys know, and  
16 someone else could obviously do it differently  
17 when they come in, but depending on what that  
18 extension is -- most of them ask for a couple of  
19 days -- you know, we have supervisors in place  
20 who can make that determination.

21 For those that are asking 30, 60, you  
22 know, whatever it is that sounds a little bit  
23 extreme, then those should fly up the flagpole a

1 little bit higher. And so, we can establish  
2 those things internally, but for the sake of this  
3 request, it is relaying that power, if you will,  
4 from the Commission to the Executive Director.

5 CHAIRMAN CARTER: Do we have the  
6 power to --

7 MR. SMITH: By statute, it's in your  
8 hands.

9 CHAIRMAN CARTER: -- tell the statute  
10 that the statute's wrong and that it ought to be  
11 done a different way?

12 MR. SMITH: Well, I don't know if  
13 we're saying -- if we're telling the statute that  
14 it's wrong as much as, you know, you guys are  
15 delegating --

16 CHAIRMAN CARTER: Okay.

17 MR. SMITH: -- the authority.

18 CHAIRMAN CARTER: May I have a motion  
19 to cede granting of extensions in cases from the  
20 Commission Panel's jurisdiction to the Executive  
21 Director's? Is that -- did I say what you  
22 wanted?

23 MS. HAYNES: Yes.

1                   COMM. RAMOS:   So moved.

2                   CHAIRMAN CARTER:   Second?

3                   COMM. GIDNEY:    Second.

4                   CHAIRMAN CARTER:   All in favor?

5                   COMM. RAMOS:    Aye.

6                   COMM. BAYNARD:   Aye.

7                   COMM. GIDNEY:    Aye.

8                   CHAIRMAN CARTER:   Aye.

9                   I thought you were going to cause more  
10 trouble --

11                                           (Laughter.)

12                   COMM. BAYNARD:   Well, I think --

13                   CHAIRMAN CARTER:   -- than you already  
14 have.

15                   COMM. BAYNARD:   I think it's  
16 reasonable.   You know, we don't want to get those  
17 type things all of the time.

18                   MR. SMITH:    If you guys wanted to, we  
19 could definitely set up and e-mail chain and  
20 shoot it to you.

21                   CHAIRMAN CARTER:   Especially this  
22 last one that was -- the one day in the whole  
23 week that I was gone from the house, there was



1 this thing, "We need this as soon as possible,"  
2 and Monday was the holiday.

3 MR. SMITH: And Monday was a holiday,  
4 yes.

5 Any other questions on that piece? I want  
6 to make sure that, in light of -- in light of the  
7 request, that you guys understand exactly what it  
8 is that we're trying to accomplish.

9 MS. ALLEN: Can I make a point?

10 MR. SMITH: Yes.

11 MS. ALLEN: Comm. Carter, what you  
12 received were requests for extension of time to  
13 file an appeal.

14 CHAIRMAN CARTER: Okay.

15 MS. ALLEN: -- to the Deputy  
16 Director's notice of finding, and that is  
17 different than --

18 CHAIRMAN CARTER: Okay.

19 MS. ALLEN: -- an extension of time  
20 to answer a complaint of discrimination.

21 CHAIRMAN CARTER: Uh-huh.

22 MR. SMITH: Well, I think, to  
23 Comm. Carter's point, it's just a matter of

1     needing to respond, and that's just one.  What  
2     we're talking about is the requests that they  
3     would receive in many cases, multiple times a  
4     day; right?

5                     MS. HAYNES:  Yes.

6                     MR. SMITH:  So, it could be multiple  
7     times a day, so whether it was that request or  
8     another request, one of the reasons we're making  
9     this request is so that they don't have to be  
10    bombarded with as many.

11                    CHAIRMAN CARTER:  Isn't that one of  
12    the first things you learn in law school is how  
13    to obtain a continuance?

14                             (Laughter.)

15                    MR. SMITH:  Any other questions,  
16    comments, feedback on that front?

17                             (No response.)

18                    MR. SMITH:  Okay.  Another request --  
19    is this the same one?

20                    MS. HAYNES:  Uh-huh.

21                    MR. SMITH:  I'll let you get up and  
22    explain this one.

23                    MS. HAYNES:  Okay.

1           And so, it's that time of the year where  
2           our administrative rules are actually coming up  
3           to expire, so every seven years we have to  
4           essentially go to maintain those rules. So,  
5           essentially at this point, we have already set  
6           these final rules. We've sent them to LSA. We  
7           have received no comment about them, so now we  
8           are just trying to readopt the administrative  
9           rules that we already have in effect.

10           And that would be section 910 IAC 1, which  
11           is Practice and Procedure before the Commission;  
12           910 IAC 2, Fair Housing Complaints; and IA -- and  
13           910 IAC 3, entitled Employment Discrimination  
14           against Disabled Persons. So, we are requesting  
15           that you agree that we should readopt the  
16           Administrative Code as it currently exists.

17           CHAIRMAN CARTER: All right.

18           May I have a motion to adopt our rules as  
19           we already have them?

20           COMM. BAYNARD: So moved.

21           COMM. RAMOS: Second.

22           CHAIRMAN CARTER: All in favor?

23           COMM. RAMOS: Aye.

1                   COMM. BAYNARD: Aye.

2                   COMM. GIDNEY: Aye.

3                   CHAIRMAN CARTER: Aye.

4                   MR. SMITH: Thank you for that, and  
5 that concludes the Executive Director's Report.

6                   CHAIRMAN CARTER: What, nothing more?

7                   MR. SMITH: No, and I'll step down  
8 today. So, unless there are any other questions  
9 for me, I will stand down.

10                  CHAIRMAN CARTER: Are there any  
11 questions?

12                  COMM. GIDNEY: No.

13                  COMM. RAMOS: No.

14                  MR. SMITH: Thank you for your time.

15                  CHAIRMAN CARTER: Thank you.

16                  So, we need to decide whether we want to  
17 discuss and decide the Cardinal Ritter and  
18 Aleesha Bullock case. Do we want to do that now?

19                  COMM. RAMOS: I'm good.

20                  COMM. GIDNEY: Are we off the record?

21                  CHAIRMAN CARTER: Are we off -- can  
22 we be off the record for a moment?

23                  (Discussion off the record.)

1                   CHAIRMAN CARTER: Okay. In the case  
2 we've just heard the oral argument on, the case  
3 of Aleesha Bullock versus Cardinal Ritter High  
4 School, does anyone have an idea of what our  
5 finding might be?

6                   COMM. GIDNEY: Yes. In the matter of  
7 Bullock versus Cardinal Ritter, I move that we  
8 uphold the findings of fact, conclusions of law  
9 proposed by the Administrative Law Judge, and  
10 amend the order, reducing the relief to \$25,000.

11                   CHAIRMAN CARTER: May I have a  
12 second?

13                   COMM. RAMOS: Second.

14                   CHAIRMAN CARTER: All in favor?

15                   COMM. RAMOS: Aye.

16                   COMM. BAYNARD: Aye.

17                   COMM. GIDNEY: Aye.

18                   CHAIRMAN CARTER: Aye.

19                   Any opposed?

20                   (No response.)

21                   CHAIRMAN CARTER: Thank you.

22                   We move to Announcements, and you said  
23 that you had an announcement.

1                   COMM. RAMOS: Yes, I have an  
2 announcement. Comm. Carter received a special  
3 recognition, which, I think, is commendable, with  
4 his disabilities.

5                   Perhaps you can explain that to all of us.

6                   CHAIRMAN CARTER: I think I did that  
7 last month, but --

8                   COMM. RAMOS: I missed it.

9                   CHAIRMAN CARTER: -- it's the  
10 Governor's -- it used to be called the Indiana  
11 Governor's Planning Council for People with  
12 Disabilities, and it is now called the Indiana  
13 Governor's Council for People with Disabilities,  
14 and I've come to the conclusion they've given up  
15 on the planning.

16                   But there is -- it's difficult to explain.  
17 It's part of a three-part, funded by the  
18 Developmental Disabilities Act. There's a -- in  
19 each state, there's an academic component, which  
20 is the Indiana Institute on Disability and  
21 Community, and there's a legal component, which  
22 is Protection and Advocacy Services, and then  
23 there's this sort of like a PR thing for

1 disabilities, which is what the Governor's  
2 Council is.

3 And they're having a conference at the  
4 beginning of December, and on Tuesday and -- the  
5 first Tuesday and Wednesday of December, and at  
6 the Westin, and they're giving me an award for  
7 volunteering. Those of us who've been -- who've  
8 committed ourselves to a career of volunteering,  
9 every once in a while we get a pat on the head,  
10 and this is that.

11 COMM. RAMOS: Congratulations.

12 CHAIRMAN CARTER: Well, thank you.

13 Any other announcements?

14 (No response.)

15 CHAIRMAN CARTER: I have to be there  
16 at 9:00 o'clock in the morning to get it, too,  
17 which is an insult. It means I have to get up  
18 around 5:00.

19 If you will observe the meeting dates for  
20 the rest of the year, which is December 13th, and  
21 we are informed that there is a Christmas or  
22 holiday luncheon after our meeting on  
23 December 13th, to which we are invited, and if we

1     have things we need to sign, we should stay until  
2     that's done.

3             Otherwise, any other matters before I bang  
4     the stately gavel?

5                             (No response.)

6             CHAIRMAN CARTER:   We are adjourned.

7             MR. SMITH:   All right.

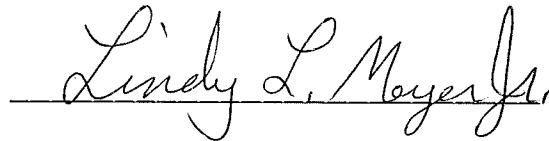
8                             - - -  
9                     Thereupon, the proceedings of  
10                     November 15, 2013 were concluded  
11                     at 1:05 o'clock p.m.  
12                             - - -

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## 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, November 15, 2013 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 October 27, 2016.  
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