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BEFORE THE STATE OF INDIANA
CIVIL RIGHTS COMMISSION

-- --

PUBLIC MEETING OF FEBRUARY 19, 2024

-- --

PROCEEDINGS

in the above-captioned matter, before the Indiana
Civil Rights Commission, Adrienne L. Slash,
Chairperson, taken before me, Heather S. Orbaugh,
a Notary Public in and for the County of Boone,
State of Indiana, CCR: LA, at the Indiana
Government Center North, 100 North Senate Avenue,
Room N300, Indianapolis, Indiana, on Monday,
February 19, 2024, at 1:00 p.m.

-- --

ACCURATE REPORTING OF INDIANA
543 Ponds Pointe Drive
Carmel, Indiana 46032
(317) 848-0088

1 A P P E A R A N C E S

2

3 COMMISSION MEMBERS:

4 Adrienne L. Slash, Chairperson
5 Terry Tolliver
6 Holli Harrington
7 Sue Silberberg

7 INDIANA CIVIL RIGHTS COMMISSION

8 By David Fleischacker, Deputy Director
9 Indiana Government Center North
10 100 North Senate Avenue, Room N300
11 Indianapolis, Indiana 46204
12 On behalf of the Commission.

11

12 COMMISSION STAFF PRESENT:

12

13 Michael Lostutter
14 Christina Afuwape
15 Paris Walton

14

15

16 ALSO PRESENT:

17 Lyndsay Ignasiak, Assis t Indiana

18 Jeremy English, Complai nant

19 Dustin Robinson, Complai nant

20 Sarah Doty, Brookdale Seni or Li vi ng

21 Kimberl y Addai r, Complai nant

22 Leonard Addai r

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1:14 PM

FEBRUARY 19, 2024

--

CHAIRPERSON SLASH: It is 1:08 on February 19, 2024, I will call this Commission meeting to order. We have visually established quorum but do we have to --

MR. LOSTUTTER: Correct. I will first off read my little spiel here. Please be advised that no party will be allowed to speak directly to the Commission during any Commission meeting except during a previously scheduled oral argument.

Concerning appeals, Commissioners will make their initial determination based on the Complaint, the Notice of Finding, the Appeal, and the final investigative report. You must not address the commission members except and unless you are addressed directly by them.

If you have any questions about your case, please wait to speak to the docket clerk until after the Commission meeting. Thank you.

CHAIRPERSON SLASH: Thank you.

MR. LOSTUTTER: And as for our agenda, we probably better make sure we have

1 quorum established here so we will call the role.
2 Commissioner Silberberg?

3 MS. SILBERBERG: Aye.

4 MR. LOSTUTTER: Commissioner
5 Harrison?

6 MR. FLEISCHACKER: Harrington.

7 MR. LOSTUTTER: Harrington, I'm
8 sorry.

9 MS. HARRINGTON: Aye.

10 MR. LOSTUTTER: Commissioner
11 Tolliver?

12 MR. TOLLIVER: Here.

13 MR. LOSTUTTER: Chair Slash?

14 CHAIR SLASH: Present.

15 MR. LOSTUTTER: Sorry for that
16 mistake, I was thinking of our illustrious
17 president from the state.

18 CHAIR SLASH: We will announce the
19 agenda.

20 MR. LOSTUTTER: We are going to
21 make a little switch. We are going to move the
22 Director's Report to the end of the meeting
23 there, that will help facilitate Commissioner
24 Harrington needing to depart as soon as all parts
25 that need her participation in.

1 We will first do old business which will
2 involve appeals, a few of which have oral
3 arguments. We will then address new business
4 assigning new appeals to commissioners. We will
5 then have a review of ALJ decisions and orders
6 followed by the ALJ decisions that are
7 automatically confirmed, and then the Director's
8 Report.

9 CHAIR SLASH: Thank you. And
10 since we came in a little late, can we note who
11 is in the room and who we have on the phone?

12 MR. LOSTUTTER: Well, we have
13 Christina on the phone, and in the room we have I
14 believe Dustin Robinson, one of our oral argument
15 participants. We have a Jeremy English, and we
16 have the attorney representing Brookdale Senior
17 Living. We have Kimberly Addair and her husband.

18 MR. ADDAIR: Father.

19 MR. LOSTUTTER: Father, I am
20 sorry. And we have the attorney I believe
21 representing Assist Indiana. And I believe that
22 covers it as far as people who are here.

23 MR. FLEISCHACKER: And we have
24 Paris Walton from the Indiana Civil Rights
25 Commission.

1 CHAIR SLASH: Thank you very much.
2 We will go ahead and we will begin. The first
3 case that we have listed, do I need to read it
4 since we are continuing it?

5 MR. LOSTUTTER: You don't have to
6 there.

7 MR. FLEISCHHACKER: Just read it.

8 CHAIR SLASH: Okay. I will read
9 it just for the record. The case of Melvin
10 Lipscomb versus Meijer Case PArA23040381. That
11 case has been continued to the March meeting.

12 The next case, Tawanda Woods versus
13 Beacon Pointe Apartments, Case H0ha23110879.
14 That case was assigned to Commissioner Jackson.
15 Did he send a recommendation ahead?

16 MR. LOSTUTTER: No, he did not.

17 CHAIR SLASH: Okay. On that point
18 I will continue that one until next month as
19 well. The next case, Dustin Robinson versus T&T
20 Collision, Case EMha23050437. That case is
21 continued from last month and we did hear a bit
22 last month but today --

23 MR. ROBINSON: I am all prepared.

24 CHAIR SLASH: You are well
25 prepared? Okay. Very good. So we will have an

1 oral argument. We have both -- we have -- do we
2 have the Respondent as well?

3 MR. LOSTUTTER: No.

4 CHAIR SLASH: Okay. Well, if
5 that's the case we will give you five minutes,
6 then if any of the Commissioners have any
7 questions, they will ask you questions if they
8 have them and then we will move forward.

9 MR. ROBINSON: Okay.

10 CHAIR SLASH: Okay.

11 MR. ROBINSON: I still need to
12 appeal, the reason why I appealed it was for,
13 one, is the Respondent never responded at all to
14 any kind of a call, E-mail, letters, anything of
15 that nature, so therefore the fact of findings
16 was based off of basically everything I had to
17 say, which was very -- if you look at the initial
18 intake, it was just a short paragraph or so of my
19 statement of I felt that I was wrongfully
20 terminated for my disability, which I was,
21 because I broke my elbow in January 22 of 2023.

22 I have all the documentation of all that,
23 I have all the documentation of text messages of
24 me being in contact with my supervisor at the
25 time, which is the one that let me in the

1 building that morning, and I played -- I mean it
2 was hard to try to even get any information out
3 of him. He basically ignored me for two weeks to
4 try to get Worker's Comp info in order to see
5 ortho, you know, to move further on with my care.
6 So therefore I got an attorney.

7 So once I got the attorney they basically
8 really turned their back on me and it was just
9 closed doors from there. And then I had to wait
10 until the adjustment of claim hearing which was
11 March 29th which is what you will see on the fact
12 of findings of determination date.

13 I was not notified or nothing at all
14 until then by my attorney after the adjustment of
15 claim hearing. That's when the story came about
16 that I was fired or terminated, I am sorry, 13
17 days prior to the incident that occurred or
18 allegedly occurred is what their statement was.

19 So therefore, yeah, I was not aware that
20 I was terminated the whole time and that's why in
21 their own thing I told them that I was still able
22 to work because I am a painter and I use my right
23 hand and I could always, you know, work around
24 and accommodate, you know, to work.

25 The fact of findings says basically the

1 Respondent, the way they wrote it as if I
2 basically just took an absence -- a leave of
3 absence for such a great amount of time to where
4 they had no choice but to terminate me was their
5 reasoning in the fact of findings.

6 So that's why I appealed that because
7 that is false all the way because I did notify
8 them, I kept in contact with them, I have got all
9 the documentation, I have got all the medical
10 records, you know, that relieves me from work
11 duty until further notice from orthopedics and
12 doctors, which they did hold up on me because of
13 the fact that, you know, they failed to give me
14 any information of work comp insurance.

15 Come to find out the reason why, they had
16 no coverage. So that's why they -- I basically
17 opened a can of worms on them in a sense and, you
18 know, not meaning to or anything on purpose, but
19 it just, it happened. So they probably didn't
20 like that too well, insurance company also, and
21 now it is a battle between them two and then here
22 I am without a job because it is illegal to
23 terminate somebody that is out on, you know, for
24 worker's compensation purposes and therefore I
25 lost my home, I am actually the home I am in now

1 is getting sold out from under me, I mean I have
2 lost so many things during this time frame it is
3 unreal. I mean I owe a \$12,000 tool bill that I
4 cannot even pay. I mean I can't even pay my
5 rent. My water is going to be shut off today
6 matter of fact. I mean it's been rough.

7 And I honestly feel, too, from this
8 happening if I were to use them as a reference
9 being he is my last employer that I have had, so
10 that would be a big time gap if I were to not
11 include him, you know. So whenever I go to try
12 to get employment, I honestly feel that has
13 hindered me so much because I have never ever in
14 my life had a problem -- or my career, I am
15 sorry, with the way my resume and everything is,
16 my background, getting employment. But ever
17 since this has happened, it has always been they
18 look into it real good and then I get a call or
19 something, oh, no, sorry, we found a better
20 candidate or they kind of try to let me down
21 softly, I guess.

22 So it's been a rough road and I mean it
23 ain't right at all for sure. And like I said,
24 with the fact of findings being based off of
25 that, it is like it is fictitious really, it is

1 like I understand you have got to do something,
2 you got to try to make a story off of that, but
3 you can't really make factual comments off of
4 somebody that is not even responding, that's not
5 even there, you know, in person.

6 So that kind of just throws my story
7 completely off to make me look like I am in the
8 wrong in a sense, you know. So that's the reason
9 why I appealed it because it was a complete 180
10 of really the factual basis of what happened.
11 And like I said, I do have all the paperwork,
12 documentation, everything that would back it up
13 one hundred percent.

14 CHAIR SLASH: Thank you. Do any
15 commissioners have any questions?

16 COMM. TOLLIVER: I don't have a
17 question. I do have a comment. I don't think
18 that we have jurisdiction over the case. It is
19 not like it is -- it is not a disability under
20 the law because it is a broken bone and based on
21 Mr. Robinson's testimony that he was able to
22 work, I don't think it impaired one or more of
23 life's major activities so I think that the
24 Commission should dismiss it.

25 CHAIR SLASH: Thank you. Any

1 other commissioner questions? Commissioner
2 Silberberg, do you have any questions for
3 Mr. Robinson?

4 COMM. SILBERBERG: I can't hear
5 very well right now.

6 CHAIR SLASH: Okay. Thank you
7 very much. Okay. Well, with that being stated,
8 thank you so much for coming back and --

9 MR. ROBINSON: Can I say
10 something?

11 CHAIR SLASH: Sure.

12 MR. ROBINSON: When I said about
13 the disability part, when I initially called for
14 the intake I honestly asked the guy if I had a
15 claim, an honest claim, and I explained to him
16 just as I explained to you and I made sure
17 because I didn't want to waste anybody's time,
18 and when I explained to him exactly what had
19 happened was, there is all kinds of different
20 ways like retaliation, there is this, there is
21 that, as far as, you know, discrimination or
22 wrongful termination.

23 I didn't know what I guidelines or
24 whatever I would fall under, you know, I just --
25 what I explained to him and I kind of left it in

1 his hands, since I wasn't coming after him set in
2 stone as it being a disability, you know. I do
3 have a disability from my knee, I fall into that
4 category with that, yes, but that was my biggest
5 concern, too, also, was the way that that was
6 worded in there, you know.

7 Because I, again, I questioned the man
8 and, you know, trusted him that he would put me
9 in the right direction I guess you could say
10 because it was like the gentleman here just said,
11 you know, that it is not under a disability type
12 thing, you know. And I am only saying that on
13 myself as far as I would work through it because
14 that's just what I do, I have to make a living,
15 you know, even if the doctor tells me I don't or
16 I am not supposed to work, I am one that will try
17 to push through it, you know.

18 But I was terminated. I mean I wasn't
19 even notified until three months later about it
20 and they faked it and told me like I was employed
21 and still had a job the whole time.

22 CHAIRPERSON SLASH: Thank you.
23 And thank you for coming back and thank you for
24 seeing things through the course. Unfortunately
25 I am going to have to agree with the fact that

1 the recommendation that there is no probable
2 cause under the Indiana Civil Rights Law. And so
3 that would be my recommendation to the Commission
4 and hearing no further questions in alignment
5 that the comment that was already previously
6 made, is there a motion?

7 COMM. TOLLIVER: I would move to
8 dismiss the Complaint subject to the jurisdiction
9 rule.

10 CHAIR SLASH: Do we have that as
11 an option?

12 COMM. HARRINGTON: Could you
13 repeat? I am sorry.

14 MR. FLEISCHACKER: You are either
15 affirming or rejecting the Notice of Finding.

16 COMM. TOLLIVER: I would move that
17 we remand to the Civil Rights Commission to
18 dismiss for no jurisdiction.

19 COMM. HARRINGTON: Second.

20 CHAIR SLASH: Okay. The motion
21 was made, Commissioner Silberberg, that we remand
22 the case back to the Civil Rights Commission for
23 dismissal and the motion was seconded. Do you
24 have a question on that, Commissioner Silberberg?

25 COMM. SILBERBERG: No.

1 CHAIRPERSON SLASH: Okay. Thank
2 you.

3 MR. LOSTUTTER: We will call the
4 role. Commissioner Silberberg?

5 COMM. SILBERBERG: Aye.

6 MR. LOSTUTTER: Commissioner
7 Harrington?

8 COMM. HARRINGTON: Aye.

9 MR. LOSTUTTER: Commissioner
10 Tolliver?

11 COMM. TOLLIVER: Aye.

12 MR. LOSTUTTER: Chair Slash?

13 CHAIR SLASH: Aye.

14 MR. LOSTUTTER: The ayes have it,
15 four nothing.

16 CHAIR SLASH: Thank you. And
17 thank you again for bringing the case.

18 Okay. The next case, Jeremy English
19 versus Brookdale Senior Living, Inc., Case
20 EMha23080644. This case also is here for oral
21 argument. Do we have both parties?

22 MR. LOSTUTTER: Yes, we do.

23 CHAIR SLASH: Thank you. Okay.
24 So the way we will go is we will -- or do you
25 want to explain?

1 MR. LOSTUTTER: We will have five
2 minutes for each side, for the Complainant and
3 for the Representative of the Respondent. And as
4 in the previous case, when the Complainant is
5 finished or his time expires, the commissioners
6 will ask questions and likewise for the
7 Respondent's representative.

8 MR. FLEISCHACKER: Chair slash, I
9 will have a timer here so that they can see it as
10 well.

11 CHAIR SLASH: Okay. I was
12 wondering about that since we have both parties
13 present. Thank you. Okay.

14 MR. LOSTUTTER: You may begin,
15 sir.

16 MR. ENGLISH: Good afternoon. I
17 appreciate your time today. I am here on appeal
18 based on -- I had filed the initial claim and
19 done the intake and spoken with the investigator
20 who said that he needed additional information.
21 I furnished the additional information that he
22 requested and the next -- sort of the next thing
23 I know without any further communication my claim
24 had been denied based on the fact that while what
25 my sales manager had said was improper, it was

1 not -- it did not fall under discrimination based
2 on the rule of law that you go by.

3 So I do not believe that he received the
4 information, the witness statements, my witnesses
5 were not contacted regarding -- he requested
6 statements based on how I was treated differently
7 from my colleagues and my coworkers.

8 MR. LOSTUTTER: Sir, I don't want
9 interrupt you, I have to. Could you speak just a
10 little bit louder? I have got a message that
11 they can't hear you.

12 MR. ENGLISH: So I actually wrote
13 a statement. I know that I am not allowed to
14 introduce any new evidence here, but it is based
15 on the evidence that I submitted to the
16 Commission or to the investigator prior. So if I
17 am allowed to read that, I would appreciate it.

18 I never officially received a response as
19 to whether or not the investigator had received
20 my pack of information. He wanted me to E-mail
21 it to him, so I did that. So I don't know if
22 anyone can confirm that he did get it or did not,
23 but I was unable to reach him to receive a
24 response on that also.

25 So my name is Jeremy, I am here to

1 discuss my filing for the report of
2 discrimination that was originally filed on
3 6-27-2023 with the federal EEOC through their
4 website but was superseded by the filing of the
5 Indiana EEOC Complaint because I could not
6 actually get a date for an investigation, they
7 were pushed out so far so I contacted the Indiana
8 EEOC.

9 I am a 16-year Veteran of the United
10 States Army, honorably discharged with injuries
11 and disabilities that were incurred as a result
12 of my service and are documented as
13 service-connected disabilities. I received a
14 notice that stated that Brookdale -- basically
15 what I just told you. So I believe the
16 statements from the witnesses were not entered
17 into the file and the witnesses were not
18 contacted. I believe this to be true because the
19 witnesses were in fact not contacted.

20 After the initial statements regarding my
21 Veteran status as well as statements mocking my
22 hearing disability have been brought to light in
23 Complaint with human resources filed, not only
24 did Brookdale fail to address and remove me from
25 the direct contact pending investigation

1 regarding Ms. Beatty's statements and behavior.
2 My meetings with her became more frequent and her
3 behavior became more discriminatory and
4 belligerent.

5 I went from once a week scheduled
6 meetings to multiple one-on-one meetings with
7 her. I was also subjected to increased morning
8 meetings that would last upwards of 30 minutes
9 where she would be allowed to belittle and abuse
10 me until either I would have to leave the meeting
11 or her boss would join to call and end the
12 meeting on my behalf because of her behavior.

13 I was forced to do assignments over and
14 over again and with each submission the rules
15 changing. During meetings she would say
16 post-filing the HR complaint, "Oh, I'm sorry, I
17 didn't think you heard me." That was a very
18 common thing that she would say. And all of
19 these things gave me great anxiety to the point
20 where I ended up having to go to the VA, had to
21 have heart -- had to wear a heart monitor because
22 I was having heart palpitations.

23 CHAIR SLASH: One minute.

24 MR. ENGLISH: So I applied for
25 different positions within the company that I was

1 qualified for to try and get out from under her
2 management, which I was publicly mocked and
3 laughed at. I applied, I was never contacted,
4 but whenever it would come up in our meetings,
5 they would laugh at me. My direct supervisors
6 would laugh at me.

7 After numerous complaints to my
8 supervisor, Ashley, I was removed from the office
9 and told that I would have to find somewhere. I
10 had also filed a complaint because I have had
11 back surgeries and I cannot stand for long
12 periods of time. I was subsequently -- one of
13 the reasons I was terminated was because I was
14 standing up and I sat at a table that I wasn't
15 supposed to; however, my office had been taken
16 from me, I had no office and I had no table to
17 sit at and so --

18 CHAIR SLASH: That's time.

19 MR. LOSTUTTER: Time.

20 CHAIR SLASH: Thank you.

21 MS. DOTY: My name is Sarah Doty,
22 I am here on behalf of Respondent Brookdale
23 Senior Living. I am here to argue that based on
24 the law and the fact of this complaint at issue,
25 the Commission correctly issued its no cause

1 finding which should be upheld. Brookdale did
2 not discriminate against Mr. English and as a
3 preliminary matter, Mr. English has raised
4 several arguments and brought up several new
5 facts here that are relevant to this appeal.

6 Respectfully now is not the time to
7 introduce new grievances or petitions for
8 reinvestigation of Mr. English's complaint
9 against Brookdale. Mr. English submitted his
10 complaints the same day that Brookdale terminated
11 his employment and he had ample opportunity at
12 that point to raise these grievances in his
13 initial complaint or amend his complaint to add
14 them during the course of the investigation. The
15 arguments he has raised are untimely, not part of
16 the appeal packet, and should not be considered
17 in the Commission's decision today.

18 As stated in the Respondent's Statement
19 of Position, Brookdale is proud to be an equal
20 opportunity employer and does not tolerate
21 discrimination or harassment. When Mr. English
22 complained that on March 14, 2023, Ms. Beatty
23 made a comment that he found offensive and
24 believed to be related to his use of hearing
25 aides, Brookdale's human resources department

1 immediately investigated and concluded that Ms.
2 Beatty's use of the phrase, "It is time to put
3 our listening ears on," was a common phrase that
4 was just used in a poor manner, especially since
5 she had just learned I believe it was that day
6 that he uses hearing aides to help with his
7 disability.

8 Human resources coached Ms. Beatty at the
9 conclusion of their investigation about these
10 comments and on the importance of remaining
11 professional. Mr. English did not complain about
12 Ms. Beatty again. In other words, Brookdale took
13 swift, appropriate, corrective action to address
14 Mr. English's complaint and prevent further
15 unwelcome comments.

16 Now, Mr. English has brought this
17 Complaint based on this isolated comment alone
18 and his apparent dissatisfaction with the outcome
19 we believe in the complaint he wishes or he
20 thought Ms. Beatty should be disciplined for the
21 comment. She was coached and the Commission
22 correctly found that there was no probable cause
23 to believe discriminatory practice occurred as he
24 has alleged. The comment itself was not severe
25 or pervasive and when Mr. English let Brookdale

1 know that the comment was unwelcome, it took
2 corrective action.

3 The Commission also found Mr. English was
4 not denied equal terms and conditions of
5 employment and that the Commission correctly
6 noted that Mr. English was unable to state how he
7 was treated differently than those similarly
8 situated to him who are not in his protected
9 class, which is because he was not.

10 Even with the additional information he
11 has raised today, should the Commission decide to
12 consider it, "I didn't think you heard me,"
13 again, these kind of phrases while may have been
14 poorly chosen, she might have been able to find a
15 more I guess delicate way to put it if she did
16 know that such comments were ones that he found
17 to be insensitive or offensive to him, they do
18 not amount to severe or pervasive, they do not
19 amount to harassment or discrimination and he did
20 not let Brookdale know about them; therefore,
21 Brookdale respectfully requests that the
22 Commission uphold its initial no cause finding
23 and I welcome any questions you may have.

24 COMM. HARRINGTON: I do have a
25 question. You made a comment that as his

1 supervisor, before she made the comment she did
2 not know he had hearing aides.

3 MS. DOTY: It is our understanding
4 based on the investigation that he had made a
5 passive comment referring to his hearing aides.
6 I believe there was something with blue tooth
7 input going into his hearing aides instead of
8 playing in the car, and that was her only
9 knowledge about his hearing impairment.

10 COMM. HARRINGTON: Okay.

11 CHAIR SLASH: Commissioner
12 Silberberg, do you have any questions?

13 COMM. SILBERBERG: No.

14 CHAIR SLASH: Thank you. No
15 questions from you as well?

16 COMM. TOLLIVER: No.

17 CHAIR SLASH: This case was
18 assigned to Commissioner Harrington. Do you have
19 a recommendation?

20 COMM. HARRINGTON: There are two
21 cases for issues so I want to make sure we
22 present on both. I just had a comment while the
23 comment was known and there is no evidence
24 whether she knew before that was presented, it is
25 not severe in just making the comment under those

1 terms.

2 So with that on the first issue, I would
3 affirm the no probable cause finding for that.
4 On the second issue, the question I had and was
5 to go to the docket clerk was on the comment of
6 verifying that additional information was
7 submitted on time and reviewed by the
8 investigator.

9 MR. LOSTUTTER: All evidence that
10 would have gone to the investor would have been
11 part of the packet there.

12 COMM. HARRINGTON: Well, no, I am
13 just saying there was -- I am trying to establish
14 a timeline and it is not clear in here and so I
15 just want to make sure there was an initial
16 submittal and then there was a comment made that
17 there was additional information and there was no
18 response from the office. Is there a timeline to
19 confirm that it was received on time?

20 MR. LOSTUTTER: I would have to go
21 back and check with the investigator to make sure
22 about that, but I mean that's how we would go
23 about I believe establishing a timeline.

24 COMM. HARRINGTON: So on the
25 second issue I would propose to go back for

1 additional information just to verify, one, if
2 additional information was provided within the
3 required timeframe and that that was reviewed as
4 that was one of the questions. And if it was,
5 then we can make the call based on verifying that
6 information.

7 CHAIR SLASH: So your
8 recommendation is that on the first issue that
9 there -- that we affirm the deputy director's
10 finding of no probable cause?

11 COMM. HARRINGTON: Correct.

12 CHAIR SLASH: And on the second
13 issue that you remand to verify timeline and
14 continue to next month?

15 COMM. HARRINGTON: Correct.

16 CHAIR SLASH: Okay. Is there a
17 motion?

18 COMM. TOLLIVER: So moved.

19 CHAIR SLASH: Is there a second?

20 COMM. SILBERBERG: Second.

21 CHAIR SLASH: Thank you.

22 MR. LOSTUTTER: We will call the
23 role. Commissioner Silberberg?

24 COMM. SILBERBERG: Aye.

25 MR. LOSTUTTER: Commissioner

1 Harri ngton?

2 COMM. HARRI NGTON: Aye.

3 MR. LOSTUTTER: Commi ssi oner

4 Toll i ver?

5 COMM. TOLL I VER: Aye.

6 MR. LOSTUTTER: Chair Sl ash?

7 CHAIR SLASH: Aye.

8 MR. LOSTUTTER: The ayes have i t.

9 CHAIR SLASH: So for cl arity, we
10 moved on one but we will come back to the other
11 after making one more look.

12 MR. ENGLISH: Thank you.

13 CHAIR SLASH: The next case,
14 Kimberl y Addai r versus Assi st Indi ana, Inc. , Case
15 EMse22070363. We also have a party present for
16 oral argument here today. Thi s case was assigned
17 to Commi ssi oner Toll i ver. And same format as
18 before, would you l i ke that repeated once more?

19 MS. ADDAI R: No.

20 CHAIR SLASH: Okay. So we will
21 begin wi th you and then we will hear from
22 Respondent' s attorney.

23 MS. ADDAI R: Sure. Okay. Before
24 I begin, I want to make sure that everybody can
25 hear me.

1 CHAIR SLASH: Commi ssi oner
2 Si lberberg, can you hear?

3 COMM. SILBERBERG: Yes.

4 MS. ADDAIR: My name is Kimberly
5 Paige Addair and I am here today to speak on
6 behalf of my appeal, but I am not here for
7 myself, I am here for every single victim,
8 survivor, and non-survivor of sexual violence
9 whose voices are not able to be heard. As a
10 specialist in sexual violence victim and survivor
11 advocacy in case management, I knew going into
12 this whole thing that nothing would come of the
13 sexual harassment I experienced, a very sad
14 reality.

15 However, I was told by Andrea Contreras,
16 intake specialist for the ICRC on July 22, 2022,
17 that I, quote, "I have great news. We can do
18 both sex and retaliation. Definitely send me a
19 report and I will be in contact with you." I
20 provided an exuberant amount of evidence and
21 began the investigation process with Lacy
22 Patterson, Civil Rights investigator with the
23 ICRC. She tells me how brave she and the other
24 women in the office think that I am for speaking
25 up about the sexual harassment, how impressed she

1 and the other women are with my confidence, and
2 how they are all rooting for me.

3 Moving forward, I do everything that I am
4 asked by everyone who asks me, including
5 discussing mediation, mediation dates with Debra
6 Blui tt, an ADR mediator for the ICRC for months
7 before Assist decided they no longer wanted to go
8 to mediation.

9 This was yet another abuse tactic
10 utilized by my abusers and enabled by the ICRC,
11 but I digress. Fast forward to October 26, 2023,
12 over a year later, I am informed by Tammy Bibbs,
13 Employment Unit investor for the ICRC that the
14 retaliation is out of the ICRC jurisdiction and
15 there is nothing that can be done about it.
16 Tammy went on to inform me that she did not
17 review all of my evidence, specifically the
18 recording I provided, because it wasn't really
19 necessary. So just like Jenny Lee, CEO of
20 Assist, Tammy did not listen to the recording.

21 While speaking with Ashim Singh, Tammy
22 Bibbs' supervisor, he informs me that the
23 retaliation is out of the jurisdiction of the
24 ICRC and agrees with me that I should have never
25 been told the literal complete opposite. He also

1 assured me that Tammy would review all evidence
2 provided in its entirety, including the
3 recording. I informed Ashim and Tammy both that
4 the way my case has been handled was unfair and
5 somewhere over the course of the almost year and
6 a half the ICRC itself has demonstrated gross
7 negligence and incompetence.

8 I stated to Ashim and continued to
9 maintain that it is downright shameful seeing as
10 how people come to the ICRC when they have been
11 done wrong experience trauma. They don't need
12 Civil Rights activists to make it worse.

13 Fast forward to December 23, 2023, a year
14 and a half later, after filing a complaint with
15 the ICRC decisions were finally made and opinions
16 delivered, though I find myself confused as to
17 why an opinion was delivered on a matter that is
18 outside the jurisdiction of the ICRC, especially
19 and solely if the evidence was not going to be
20 reviewed in its entirety.

21 Again, just like Jenny Lee, Tammy Bibbs,
22 and whoever else after that at the ICRC did not
23 listen to the recording. The ICRC maintains in
24 their opinion that I did not record the sexual
25 harassment I was experiencing until after I was

1 coached on my poor job performance. The award
2 for the ultimate gaslight of the century goes to
3 the Civil Rights Commission. Congratulations.

4 I was invited to a meeting on April 28,
5 2022, entailing general discussion for my sexual
6 harasser where I entered the meeting to ask if I
7 am being fired, let go, asked to resign,
8 suggested to leave, or if my job is at risk in
9 any way, shape, or form, and I am told no by both
10 my harasser and direct supervisor, Joe Cotterman.
11 We have general seemingly good discussion, share
12 laughs, and then shortly after my harasser begins
13 utilizing his abuse tactics that I had grown
14 extremely sick of, so I report the harassment, he
15 scoffs and laughs in my face. I am instructed to
16 work in the community and from home until May 3,
17 2022, when I am asked to return to speak to Jenny
18 Lee.

19 When I return to speak to Jenny Lee, she
20 informs me that I am no longer employed with
21 Assist and that this decision was made prior to
22 the meeting. Bottom line, we would not be
23 sitting here if any single one of you would have
24 just listened to the recording or if I had just
25 pulled that Marilyn Monroe and worn my bra to

1 work. I debated if I would come here today, I
2 debated if I would come here and stand in silence
3 for five minutes to waste everyone's time --

4 CHAIR SLASH: One minute.

5 MS. ADDAIR: -- since the ICRC
6 wasted a year and a half of mine. Ultimately I
7 know that no matter what I came in here to say
8 today or if I hadn't shown up at all, absolutely
9 nothing changes and nothing can be done about the
10 retaliation or the harassment even if you reverse
11 the appeal. But after leaving here today I can
12 confidently say that I did everything that I
13 could do and exhausted all of my options, but
14 unfortunately all of my options have also
15 exhausted me.

16 I am also equally confident that the
17 ICRC's one and a half star rating on Google
18 speaks for itself. Again, I digress. But most
19 importantly, it is 2024, we have to stop victim
20 blaming. So despite a very disappointing overall
21 outcome for me, I am thankful for the very
22 privileged opportunity that I have to be able to
23 speak and I do ask that the ICRC reconsider their
24 deliberate opinion regarding the retaliation and
25 uphold their stance that it is out of their

1 jurisdiction and adhere to that.

2 CHAIR SLASH: Thank you.

3 MS. ADDAIR: You are welcome.

4 MS. IGNASIAK: Good afternoon. My
5 name is Lyndsay Ignasiak and I am here on behalf
6 of Assist Indiana. We would respectfully ask
7 that you uphold the finding of no probable cause
8 on all of the three issues in this case. With
9 regard to retaliation and jurisdiction, I believe
10 the issue was a prior report to the Civil Rights
11 Commission that it simply did not take place.
12 You know, that -- notwithstanding that fact, the
13 analysis for the retaliation claim was given
14 within the findings and no cause found even if
15 there were jurisdiction, which the Commission
16 found that there were not.

17 This is an individual who was within her
18 90-day probationary period with our non-profit
19 organization that is dedicated to helping victims
20 of sexual assault. Within that 90 days, you
21 know, obviously high hopes for hires, but
22 absolutely no work was performed by the
23 Complainant. There is repeated documented
24 evidence of not showing up for or asking to be
25 excused from different events that had been

1 volunteered for.

2 I believe the Complainant was
3 specifically hired to kind of start a human
4 trafficking wing and once upon hire never
5 attended a single meeting with the police force
6 on the human trafficking. In her 90 days never
7 once saw a client. This was brought up with her
8 on a number of occasions with plenty of
9 opportunities for training. One she declined,
10 one she walked out on halfway through, yet
11 repeatedly claimed that she didn't know what she
12 was supposed to be doing.

13 So the 90 days comes up, she has this
14 meeting on April 28 to go through her
15 performance. Once she understands what the
16 meeting is about and that her employment would
17 not be continued, she brings this sexual
18 harassment allegation. Our business takes this
19 very seriously. They are in the business of
20 victims. They stopped the proceedings
21 immediately after the meeting had concluded to
22 start an investigation which is why she was
23 placed on administrative leave, more working from
24 home so that the investigation could take place
25 and she wouldn't be in the same room with her

1 harasser or alleged harasser. Same thing with
2 her alleged harasser, he was asked not to come
3 into the office while a full investigation took
4 place.

5 Nothing could be corroborated. They take
6 this very seriously and ultimately the decision
7 to terminate her after her 90 days remained not
8 withstanding her allegations of sexual harassment
9 that could not be substantiated any way. There
10 is no connection between her complaint and her
11 termination, that had already been decided before
12 she had made it, or her lack of performance
13 within those 90 days. We would respectfully
14 request that this finding be upheld.

15 CHAIR SLASH: Thank you. Are
16 there any questions by commissioners? Any
17 questions, Commissioner Silberberg?

18 COMM. SILBERBERG: No questions.

19 CHAIR SLASH: Thank you.
20 Commissioner Tolliver?

21 COMM. TOLLIVER: So there were
22 three issues here and I would recommend that we
23 uphold the Commission's finding of no probable
24 cause for each of the three issues.

25 CHAIR SLASH: Is there a second?

1 COMM. HARRINGTON: Second.

2 CHAIR SLASH: Okay.

3 MR. LOSTUTTER: We will call the
4 role. Commissioner Silberberg?

5 COMM. SILBERBERG: Aye.

6 MR. LOSTUTTER: Commissioner
7 Harrington?

8 COMM. HARRINGTON: Aye.

9 MR. LOSTUTTER: Commissioner
10 Tolliver?

11 COMM. TOLLIVER: Aye.

12 MR. LOSTUTTER: Chair Slash?

13 CHAIR SLASH: Aye.

14 MR. LOSTUTTER: The ayes have it,
15 four to zero.

16 CHAIR SLASH: We have one more
17 case for old business but I would like to say to
18 the folks who have come in and followed their
19 cases, we do still thank you for submitting them
20 and for following the process. It is not an easy
21 thing to do so we thank you.

22 The last case that I have in old business
23 was assigned to myself, Leslie Harrison versus
24 Meijer Stores Limited Partnership, Case
25 EMre22110661 and my recommendation is that we

1 uphold the deputy director's finding of probable
2 cause. Is there a motion?

3 COMM. TOLLIVER: So moved.

4 CHAIR SLASH: Thank you. Second?

5 COMM. HARRINGTON: Second.

6 CHAIR SLASH: Thank you.

7 MR. LOSTUTTER: We will call the
8 role. Commissioner Silberberg?

9 COMM. SILBERBERG: Aye.

10 MR. LOSTUTTER: Commissioner
11 Harrington?

12 COMM. HARRINGTON: Aye.

13 MR. LOSTUTTER: Commissioner
14 Tolliver?

15 COMM. TOLLIVER: Aye.

16 MR. LOSTUTTER: Chair Slash?

17 CHAIR SLASH: Aye.

18 MR. LOSTUTTER: The ayes have it,
19 four to zero.

20 CHAIR SLASH: Thank you. We have
21 new business and I will assign them as present.
22 The first case, Kevin Ahern versus Cort Furniture
23 Rental, Case EMha23060664. That case I will
24 assign to Commissioner Harrington.

25 The case of Cary Lynch versus New Albany

1 Housing Authority, Case H0ra23090724, I will
2 assign to Commissioner Tolliver if that's okay.

3 COMM. TOLLIVER: Okay.

4 CHAIR SLASH: All right. We have
5 some ALJ Decisions and Orders to review. The
6 first one I am seeing a note that says that this
7 first one, there was an objection filed with ALJ
8 and continued.

9 MR. LOSTUTTER: Deputy Director --

10 CHAIR SLASH: Do you want me to
11 read the case in first before you add comment?

12 MR. FLEISCHACKER: Yes, please.

13 CHAIR SLASH: OKAY. The case is
14 Lee Robinson versus Phillips 66 Gas Station, Case
15 PArA20030115. The Administrative Law Judge held
16 a public hearing in this matter on January 10,
17 2024. The Complainant, a member of a protected
18 class, attended in person along with ICRC Staff
19 Attorney Fred Bremer. Respondent did not appear.

20 After listening to Complainant's
21 testimony and Attorney Bremer's oral closing
22 argument, the ALJ ordered the Respondent to pay
23 within 30 days a civil penalty in the amount of
24 \$10,000 made payable to the Indiana Civil Rights
25 Commission and must also deliver to the Indiana

1 Civil Rights Director of Compliance as an escrow
2 agent a check in the amount of \$30,000 made
3 payable to the Complainant as compensation for
4 emotional distress because of the unlawful and
5 discriminatory actions made by the Respondent.

6 Within the same 30 days of the effective
7 date of this Order, Respondent must also post
8 nondiscrimination notices in conspicuous places
9 at all of its properties including 702 Lincoln
10 Way East, South Bend, Indiana, 46601, and on its
11 website. Respondent must cease and desist from
12 discriminating against people based on race in
13 the protected area of public accommodation. The
14 objection period in this matter has closed.

15 MR. FLEISCHACKER: Thank you,
16 Chair Slash. The objection period has closed,
17 our staff attorney did file an objection; it was
18 however filed directly with OALP and not with the
19 Commission; therefore there is some process
20 requirements under AOPA that may render that
21 objection not timely filed with the ultimate
22 authority. However, the intent behind the
23 objection was to fix some what we believe are
24 clerical mistakes or errors in the nonfinal order
25 from the ALJ.

1 AOPA, the Administrative Orders and
2 Procedures Act does allow for ultimate
3 authorities to fix those errors. Typically it is
4 after a final order has been issued. I think it
5 is easier here to fix it before the final order
6 is issued instead of issuing anything and going
7 back and fixing it. The clerical mistakes that
8 are in here, there is the Administrative Law
9 Judge made references to the Indiana Fair Housing
10 Act and this is a public accommodation case so
11 obviously the Indiana Fair Housing Act does not
12 apply in this situation and therefore Paragraph 6
13 under the conclusions of law which is on Page 4
14 of the ALJ order, that all talks to damages under
15 the Indiana Fair Housing Act, which would not be
16 applicable to this.

17 Paragraph 5 talks about damages under the
18 Indiana Civil Rights Act so that's already
19 contained in there so it would be to replace that
20 paragraph. And then under the Decision and
21 Order, Paragraph 3 which is on Page 5, that goes
22 to a civil penalty against the Respondent;
23 however, civil penalties are only permitted under
24 the Indiana Fair Housing Act.

25 So given that it is an Indiana Civil

1 Rights Law case, a civil penalty would not be --
2 the Commission cannot issue a civil penalty under
3 the Indiana Civil Rights Law.

4 CHAIR SLASH: And that's the
5 \$30,000?

6 MR. FLEISCHHACKER: That's the
7 \$10,000.

8 CHAIR SLASH: The 10,000? Okay.

9 MR. FLEISCHHACKER: The 30,000 is
10 emotional distress damages and that's permissible
11 under the Civil Rights Law; however, the civil
12 penalty is only permitted under the Indiana Fair
13 Housing Act. So I think that the Commission
14 would be able to modify this Order and then issue
15 the Final Order and in modifying basically
16 removing that Paragraph 6 and the Paragraph 3 in
17 those two areas that I discussed, and then
18 removing any other reference to the Indiana Fair
19 Housing Act. There is a couple code cites
20 throughout the document, I would just remove
21 those from those paragraphs.

22 CHAIR SLASH: Okay. So tell me if
23 this works, does anyone have any questions?

24 COMM. TOLLIVER: I guess just
25 procedurally, can we modify -- is there a reason

1 why we are modifying the ALJ's Order as opposed
2 to the ALJ correcting it and resubmitting it?

3 MR. FLEISCHACKER: Once the ALJ
4 issues a Nonfinal Order, it becomes property of
5 the Commission as the ultimate authority, so it
6 essentially comes into your hands now to make
7 those changes, so you are the body that would
8 handle those changes to that Nonfinal Order.

9 COMM. TOLLIVER: Okay. Is this
10 just a bad copy and paste?

11 MR. FLEISCHACKER: That's what I
12 believe it to be and I guess we will get into it
13 during the director's report, if House Bill 1003
14 goes through and the ALJ ends being the ultimate
15 authority in these types of cases, then we would
16 be able to file something with the ALJ to correct
17 those errors correctly because then it would be
18 the final order and we could issue -- have that
19 interaction with them. But here since it is an
20 ALJ issuing a nonfinal order on behalf of an
21 ultimate authority, once they issue that then it
22 moves to the ultimate authority to do the things
23 with it that it has the power to do under AOPA.

24 COMM. TOLLIVER: It would just
25 make it easier if we had the Order.

1 MR. FLEISCHACKER: Do you not
2 have the Order?

3 COMM. TOLLIVER: I don't.

4 CHAIR SLASH: We have the Order,
5 it was linked in our file, correct.

6 COMM. TOLLIVER: Is it?

7 CHAIR SLASH: I thought so.

8 MR. LOSTUTTER: Yes.

9 COMM. TOLLIVER: Oh, I am sorry.

10 CHAIRPERSON SLASH: That's okay.

11 With that being said, though, would you like to
12 take a moment to read that or would you like for
13 us to offer it as a motion?

14 COMM. TOLLIVER: If someone has a
15 motion, I can read it.

16 CHAIR SLASH: So I am going to be
17 a little fancy here and I am going to ask David
18 to restate what he recommends we modify.

19 MR. FLEISCHACKER: Sure. My
20 recommendation would be to modify the recommended
21 findings of fact and conclusions of law and order
22 to remove any references to the Indiana Fair
23 Housing Act and specifically to remove Paragraph
24 6 from the Conclusions of Law section and
25 Paragraph 3 from the decision and order section,

1 which would remove damages provisions from the
2 Indiana Fair Housing Act as inapplicable to this
3 matter.

4 CHAIR SLASH: Might I say so moved
5 because it should be reflected properly in the
6 minutes?

7 MR. FLEISCHHACKER: Yeah, I can't
8 make a motion.

9 CHAIR SLASH: You made recommended
10 language. Do you want to take a stab at it?

11 COMM. TOLLIVER: We are moving to
12 accept the --

13 CHAIR SLASH: Yes. I would like
14 to make a recommendation that we make a motion to
15 accept the Deputy Director's recommended
16 modification as stated.

17 COMM. TOLLIVER: Ultimately it
18 will be part of the record and we will put
19 together the --

20 CHAIR SLASH: I just need a so
21 moved and a second.

22 COMM. TOLLIVER: So moved.

23 CHAIR SLASH: Is there a second?

24 COMM. HARRINGTON: I will second.

25 CHAIR SLASH: Commissioner

1 Silberberg, are you back?

2 COMM. SILBERBERG: Sorry, I got
3 lost.

4 CHAIR SLASH: Okay. Are you
5 following the motion of modification that we are
6 making at this time?

7 COMM. SILBERBERG: I heard about
8 the first half of it and then I lost the last
9 probably five minutes I couldn't hear anymore.

10 CHAIR SLASH: Okay. So the motion
11 that has been made has been on the recommended
12 modification of this order as stated by our
13 deputy director here. We have a motion, we are
14 seeking a second.

15 COMM. SILBERBERG: Second.

16 CHAIR SLASH: Okay. Thank you.

17 MR. LOSTUTTER: All right. We
18 will call the order, call the role. Commissioner
19 Silberberg?

20 COMM. SILBERBERG: Aye.

21 MR. LOSTUTTER: Commissioner
22 Harrington?

23 COMM. HARRINGTON: Aye.

24 MR. LOSTUTTER: Commissioner
25 Tolliver?

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COMM. TOLLIVER: Aye.

MR. LOSTUTTER: Chair Slash?

CHAIR SLASH: Aye.

MR. LOSTUTTER: The ayes have it.

CHAIR SLASH: We have very few things left that we have to vote on. If you can hang with us just a little bit longer. The next case, ICRC/Lanita Goins versus Spicewood Garden Apartment II, LP, Herron Property Management, And Hand, Inc., Case H0ra23080663. The case was submitted to the Commission on February 14, 2024. The Administrative Law Judge in this matter took under consideration the Respondent's request to move this matter out of the administrative forum, a request made on February 13, 2024.

Since the parties are not in agreement to have claims decided in a court of law, the Notice is granted in part and denied in part, with the Complaint of Discrimination under the IFHA against the Respondent dismissed with prejudice. 910 IAC 2-7-9(a). The Notice is not effective in moving the Complaint of Discrimination under the ICRL out of the Administrative forum, which will result in a bifurcation of the proceedings and will be addressed at the initial prehearing

1 conference with the parties to determine their
2 intent before a final dismissal is issued.

3 The objection period in this matter has
4 not closed and there is no decision on this
5 matter due at this time. So we will see that
6 next month I am sure.

7 MR. LOSTUTTER: Yes. One other
8 thing we need to have a vote approval of previous
9 meeting minutes.

10 CHAIR SLASH: Okay. So we will go
11 through the ALJ cases that are automatically
12 confirmed, I am just reading these into the
13 record and if you are following along in your all
14 over the place agenda, we will approve minutes
15 after that and then we will hear the director's
16 report.

17 So the first case that was automatically
18 confirmed is Roger Sisler versus Somnath
19 Hospitality, LLC, Case PAha22120722. The next
20 case, ICRC/Christopher Cottrell versus James
21 Ellenberger & Christine Villaire, Case
22 H0ha23020143.

23 The next case, Scott Blevins versus
24 Mineral Springs, LLC, Case H0ha23040347. Next
25 case, Ebony Wilson o/b/o MS versus Trinity

1 Lutheran Church and School , Case EDra22110668.

2 Next case, Thomas Jordan versus Best Buy
3 Stores, LP, Case PAha21060215. Next case,
4 ICRC/Carolyn Santiago versus KMC Property
5 Management, Case H0ra23050422. Case ICRC/James
6 Lee & Cody Napier versus Robert N. Mead,
7 H0ha22080387. That concludes our automatically
8 confirmed cases.

9 At this time I am going to go back to the
10 top of our agenda and ask for a motion to approve
11 the minutes from our January 2024 Commission
12 Meeting.

13 COMM. TOLLIVER: So moved.

14 COMM. HARRINGTON: So moved.

15 COMM. TOLLIVER: Second.

16 CHAIR SLASH: Okay. I will take
17 the motion by Commissioner Harrington and the
18 second by Commissioner Tolliver.

19 COMM. SILBERBERG: Second.

20 MR. LOSTUTTER: I think that would
21 be third.

22 COMM. SILBERBERG: Okay. Third,
23 sorry.

24 MR. LOSTUTTER: Now we will call
25 the role. Commissioner Silberberg?

1 COMM. SILBERBERG: Aye.

2 MR. LOSTUTTER: Commissioner

3 Harrington?

4 COMM. HARRINGTON: Aye.

5 MR. LOSTUTTER: Commissioner

6 Tolliver?

7 COMM. TOLLIVER: Aye.

8 MR. LOSTUTTER: Chair Slash?

9 CHAIR SLASH: Aye.

10 MR. LOSTUTTER: The ayes have it.

11 CHAIR SLASH: Okay. Wonderful.

12 At this time we will hear the ICRC Director's
13 Report.

14 MR. FLEISCHACKER: Thank you,
15 Chair Slash. I will try to keep things brief
16 today, I know it's the beginning of the year and
17 everything. We have the -- I think it was just
18 after our last commission meeting on January 25,
19 we held the 25th annual Holocaust Remembrance
20 event which was well-attended and well-received.
21 So that was a I think a great event and better
22 attended Holocaust Remembrances that we have done
23 in recent times.

24 Currently right now we have some social
25 media campaigns going on for Black History Month,

1 we will have one for Disability Awareness Month
2 in March. During April for Fair Housing Month we
3 will have a webinar and some other social media
4 campaign items that will be going on.

5 Typically in April we start our core
6 events where we have an intake specialist out in
7 the community at public libraries throughout
8 Indianapolis. This year we have also expanded
9 and we are going to be doing -- we have a group
10 that we are going to be working with at the
11 Northwest Indiana where we will be doing core
12 events up there as well to get out and have
13 somebody available for the general public to come
14 to and ask questions and initiate that intake
15 process right there on site.

16 Legislatively we are in the short session
17 which is going pretty quickly. At the beginning
18 there were 450 House bills that were filed and
19 300 bills in the Senate filed. Of those only 111
20 moved forward to the second chamber from the
21 House and 109 moved forward into the second
22 chamber for the Senate. We are still tracking a
23 handful of bills that would have some kind of
24 impact either directly or indirectly on ICRC.

25 House Bill 1002, I think it would have an

1 indirect impact on us of where it is adding a
2 definition of anti-Semitism to the religious
3 discrimination under the education title. We
4 would already I guess enforce that under our
5 discrimination laws under civil rights, but that
6 is something that continues to move forward and
7 actually saw Commissioner Silberberg provide
8 testimony for that one when it was in the House.

9 House Bill 1003, we mentioned that
10 earlier today, under that bill the ALJs under the
11 Office of Administrative Law Proceeding would
12 become the ultimate authority for the matters
13 that fall under their jurisdiction, ICRC being
14 one of those agencies and areas. That would also
15 be for matters that go on judicial review in say
16 a de novo proceeding with no deference to the
17 agency decision.

18 And then there is also a new attorneys
19 fees provision under there where if before the
20 administrative law judge an agency loses and then
21 files a judicial review and if they lose again
22 before on that appeal, then they are beholden to
23 the attorneys' fees for the Respondent in those
24 cases if you lose both on the administrative and
25 on the judicial review.

1 So some things going on with that one.
2 We have been in discussions with our federal
3 partners regarding whether or not those laws as
4 written or as applied in practice would impact
5 the department substantial equivalency
6 requirements and as written there is not a
7 concern because the laws are still getting
8 enforced, there is still a process, but there is
9 some concern about how it plays out in practice,
10 you know, will some of those additional things
11 have a chilling effect for judicial reviews, will
12 they impact rights or remedies with the no
13 deference and things of that nature. But we
14 won't understand that until it actually plays out
15 in the final bill languages and what it looks
16 like in practice.

17 House Bill 1026 doesn't impact this
18 commission but it changes some of the language in
19 the other cultural commissions that fall under
20 the Civil Rights Commission as far as us
21 providing administrative support to them.

22 And then Senate Bill 4 impacts some
23 dedicated fund areas where if there is dedicated
24 funds out there that haven't had any activity in
25 them for two years or more, then state budgets

1 can pull those funds and revert them to the
2 general fund. At this point we don't think
3 that's going to impact any of our dedicated funds
4 because we continue to spend money out of them,
5 but that's something that could have an impact in
6 the future.

7 Those are kind of the main bills that we
8 are tracking. Senate Bill 15 is a Veteran's
9 poster bill that charges the Department of Labor
10 with help from the Department of Veterans Affairs
11 to create a poster that will go up in businesses
12 of 50 employers or more. I have reached out to
13 my counterparts in both of those agencies to
14 offer our assistance in making sure that our
15 civil rights laws that impact veterans are
16 included on that poster.

17 As far as metrics go, we are on pace to
18 meet or exceed our federal agreements for the
19 year. Kind of indicative of that for open
20 investigations under employment, we have 381 open
21 investigations currently, our contract for the
22 year is 350 and we have already I think finished
23 about 150, 175. So we have plenty of inventory
24 to meet our EEOC agreement and this may be one of
25 the first times in a long time that we might be

1 able to adjust our contract up to get payment for
2 more than our initial contract says.

3 Our current housing inventory is 30 cases
4 and then we have 14 other cases of public
5 accommodation, education. We actually have
6 credit case for the first time in several years.

7 CHAIR SLASH: Wow.

8 MR. FLEISCHACKER: I know, crazy.
9 And then currently we have 58 open litigation
10 cases in either the administrative or judicial
11 setting. So that's what is going on
12 operationally with the agency.

13 CHAIR SLASH: We haven't seen a
14 credit case since maybe 2017 when I first got
15 here, and it was an old one from like 2015.
16 Okay. Thank you. Do we have any questions?

17 COMM. TOLLIVER: I do not.

18 CHAIR SLASH: Commissioner
19 Silberberg, do you have any questions?

20 COMM. SILBERBERG: No.

21 CHAIR SLASH: On the record, can
22 we be introduced to our new staff person?

23 MR. FLEISCHACKER: Yes,
24 absolutely. This is Paris Walton. She is our
25 new outreach and education manager within

1 External Affairs so she will be representing the
2 agency out at different functions, helping plan
3 them, and doing all kinds of cool stuff on behalf
4 of the agency.

5 MS. WALTON: Thank you.

6 CHAIR SLASH: I am very glad to
7 have you here at the agency.

8 MS. WALTON: Thank you.

9 CHAIR SLASH: Okay. I did check
10 with Commissioner Harrington before she left so I
11 think I am okay to put this through. Without
12 hearing any further questions for the staff, we
13 will go back to our regular section of the agenda
14 and look at meeting dates. The upcoming meeting
15 of March 18, do you have any concerns?

16 COMM. TOLLIVER: I do not.

17 CHAIR SLASH: Commissioner
18 Silberberg, do you have any concern with the
19 March 18 date?

20 COMM. SILBERBERG: No, that's
21 fine.

22 CHAIR SLASH: Okay. Thank you.
23 March 15, I am going to put a question mark next
24 to.

25 COMM. TOLLIVER: April?

1 CHAIR SLASH: Yes, April, sorry.
2 It is just after my birthday and I don't know if
3 I will have returned back yet if I am going to
4 go. So I will just make sure that I am alerting
5 you all in advance that April 15 may be a concern
6 for me. And we will look at the other dates when
7 we have more commissioners available. Seeing no
8 election training or other on the calendar, are
9 we looking at a regular training cycle for this
10 year?

11 MR. FLEISCHACKER: Which would be
12 held in April.

13 CHAIR SLASH: Which would -- I
14 know, I know. So I will have an answer by the
15 March meeting of what that looks like for me.
16 And I actually think that I would like for us to
17 kind of go through some of those more difficult
18 cases that we have had in the past year as a part
19 of that training to identify how we looked at
20 them and maybe even if we could I would like to
21 make the recommendation that we hear from staff
22 that do the intake and the investigations about
23 what all happens in that process. I think other
24 commissioners have that question. Do you have
25 anything that you would like to put on your wish

1 list of training?

2 COMM. TOLLIVER: I would like to
3 see what the Legislature says, but if we are no
4 longer the ultimate authority there is probably
5 going to be a big change.

6 MR. FLEISCHHACKER: Yeah, it will
7 just impact the ALJ decision portion of stuff,
8 all the NOF appeals would still remain with the
9 commission because those cause terminations are
10 exempted from AOPA.

11 CHAIR SLASH: Thank you. So that
12 was my only thing, I wanted to get some wish list
13 items out there. Do we have any announcements?
14 No? Okay. There is clearly no one here for
15 public comment. And so with that being said, it
16 is 2:09 p.m., it took us only an hour, I am
17 shocked about that, but I will dismiss this
18 month's meeting of the Indiana Civil Rights
19 Commission.

20 (Proceedings adjourned at 2:09 p.m.)

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CERTIFICATE

STATE OF INDIANA)
) ss:
COUNTY OF BOONE)

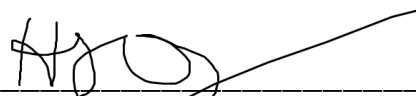
I, Heather S. Orbaugh, the undersigned Court Reporter and Notary Public residing and maintaining offices in the City of Zionsville, Boone County, Indiana, do hereby certify:

That I reported to the best of my ability in machine shorthand all of the words spoken by all parties in attendance during the course of the ensuing proceedings, including objections, if any, made by all counsel present;

That I later reduced my shorthand notes into the foregoing typewritten transcript form, which typewritten transcript is a true record to the best of my ability of the testimony given by the witness as stated above;

That I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or an employee of such attorney or counsel, and that I am not financially interested in this action.

IN WITNESS HERETO, I have affixed my Notarial Seal and subscribed my signature below this 21st day of February, 2024.



Notary Public



County of Residence: Boone (Seal)
My Commission Expires on: April 4, 2026

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