

STATE OF INDIANA  
CIVIL RIGHTS COMMISSION

DOCKET NO. EMha05070375

DALE L. EGGERT II,  
Complainant,

vs.

SMITTY'S BRAKE & MUFFLER  
SERVICE,  
Respondent.

FILE DATED

JAN 26 2007

Indiana State Civil Rights Commission

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND  
ORDER**

On December 21, 2006, Robert D. Lange, Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC"), entered his Proposed Findings Of Fact, Conclusions Of Law, And Order ("the proposed decision").

No objections have been filed to the ICRC's adoption of the proposed decision.

Having carefully considered the foregoing and being duly advised in the premises, the ICRC hereby adopts as its own the findings of fact, conclusions of law, and order proposed by the ALJ in the proposed decision, a copy of which is attached hereto and incorporated herein by reference.

**INDIANA CIVIL RIGHTS COMMISSION**

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

Dated: 26 January 2007

To be served by first class mail on the following parties and attorneys of record:

Dale L. Eggert II  
606 Meridian Street  
Mishawaka, IN 46544-4646

Smitty's Brake & Muffler Service  
c/o Chief Executive Officer  
2925 McKinley Avenue  
South Bend, IN 46615

Gregory D. Loughridge, Esq.  
Gregory D. Loughridge, P.C.  
Attorney for Respondent Smitty's Brake & Muffler Service  
320 West 4<sup>th</sup> Street  
Mishawaka, IN 46544

and to be personally served on the following attorney of record:

Joshua S. Brewster, Esq.; Staff Attorney  
Indiana Civil Rights Commission  
Attorney for Complainant Dale L. Eggert, II  
Indiana Government Center North  
100 North Senate Avenue, Room N103  
Indianapolis, IN 46204-2255

STATE OF INDIANA  
CIVIL RIGHTS COMMISSION

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DALE L. EGGERT II,  
Complainant,

FILE DATED

vs.

DEC 21 2006

SMITTY'S BRAKE & MUFFLER  
SERVICE,

Indiana State Civil Rights Commission

Respondent.

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF  
LAW, AND ORDER**

On December 19, 2006, Complainant, Dale L. Eggert II ("Eggert"), filed his Motion To Dismiss, a motion to which Respondent Smitty's Brake & Muffler Service ("SBMS"), has not responded.

Having carefully considered the foregoing and being duly advised in the premises the undersigned Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") proposes that the ICRC enter the following findings of fact, conclusions of law, and order.

**FINDINGS OF FACT**

1. Eggert's complaint alleges that SBMS terminated his employment because of his association with an individual (his step-daughter) with a perceived disability (being HIV positive) in violation of the Indiana Civil Rights Law, IC 22-9. ("the ICRL"). COMPLAINT OF DISCRIMINATION (July 5, 2005) ("COMPLAINT").

2. SBMS disputed Eggert's claim of unlawful discrimination. NOTICE OF FINDING (August 9, 2006).
3. Eggert's Motion is expressly motivated by a settlement.
4. There is no evidence of fraud, coercion, duress, or any other reason not to approve the stipulated dismissal.
5. Any Conclusion Of Law that should have been deemed a Finding Of Fact is hereby adopted as such.

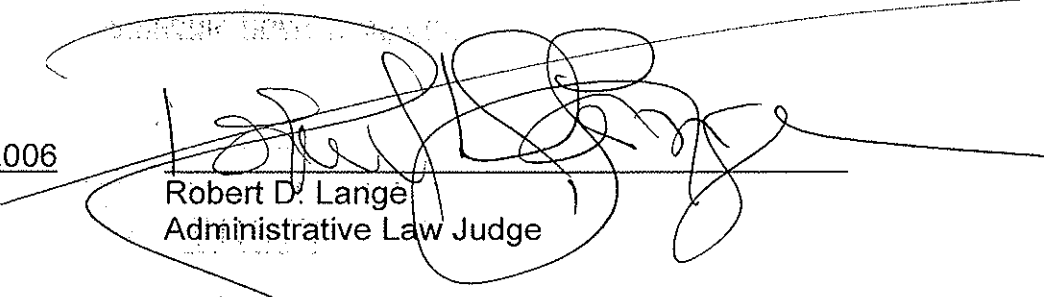
### CONCLUSIONS OF LAW

1. The ICRC has jurisdiction over the subject matter and the parties.
2. Settlement is a favored resolution and should be encouraged.
3. Administrative review of this proposed decision may be obtained by the filing of a writing specifying with reasonable particularity each basis for each objection within fifteen (15) days after service of this proposed decision. IC 4-21.5-3-29(d).
4. Any Finding Of Fact that should have been deemed a Conclusion Of Law is hereby adopted as such.

### ORDER

1. Eggert's Motion To Dismiss is **GRANTED**.
2. Eggert's COMPLAINT is **DISMISSED**, with prejudice.

Dated: 21 December 2006

  
Robert D. Lange  
Administrative Law Judge

To be served by first class mail this 21<sup>st</sup> day of December, 2006 on the following parties and attorneys of record:

Dale L. Eggert II  
606 Meridian Street  
Mishawaka, IN 46544-4646

Smitty's Brake & Muffler Service  
c/o Chief Executive Officer  
2925 McKinley Avenue  
South Bend, IN 46615

Gregory D. Loughridge, Esq.  
Gregory D. Loughridge, P.C.  
Attorney for Respondent Smitty's Brake & Muffler Service  
320 West 4<sup>th</sup> Street  
Mishawaka, IN 46544

and to be personally served this 21<sup>st</sup> day of December, 2006 on the following:

Joshua S. Brewster, Esq.; Staff Attorney  
Indiana Civil Rights Commission  
Attorney for Complainant Dale L. Eggert, II  
Indiana Government Center North  
100 North Senate Avenue, Room N103  
Indianapolis, IN 46204-2255

Indiana Civil Rights Commission  
c/o The Honorable Gregory Kellam Scott, Esq.; Director  
Indiana Government Center North  
100 North Senate Avenue, Room N103  
Indianapolis, IN 46204-2255