

**STATE OF INDIANA
INDIANA CIVIL RIGHTS COMMISSION**

GREGORY L. WILSON, SR., in his official
capacity as EXECUTIVE DIRECTOR of the
INDIANA CIVIL RIGHTS COMMISSION,
Complainant,

vs.

CREATIVE APPROACH REALTY, LLC,
Respondent.

ICRC No.: HOha17061143

HUD No.: 05-17-8434-8

DATE FILED

JUN 21 2019

ICRC
COMMISSION

FINAL ORDER

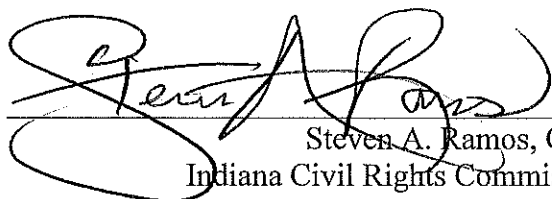
On May 3, 2019, Commissioner Adrienne Slash, Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") issued her Administrative Law Judge's Proposed Findings of Fact, Conclusions of Law, and Order ("Order"). The Parties had opportunity to object to the Order; neither Party objected. With no objection or intent to review on record, the Commission shall affirm the Order. IC 4-21.5-3-29. After consideration of the record in this matter and the Order,

THE COMMISSION HEREBY ORDERS:

1. The findings of fact and conclusions of law as stated in the Order, a copy of which is attached hereto, are incorporated herein by reference. IC 4-21.5-3-28(g)(2).
2. The Order is AFFIRMED under IC 4-21.5-3-29 and hereby becomes the Final Order disposing of the proceedings. IC 4-21.5-3-27(a).

Either party to a dispute filed under IC 22-9.5 may, not more than thirty (30) days after the date of receipt of the Commission's final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions. IC 22-9.5-11-1.

ORDERED by the Commission majority vote of 4
Commissioners on June 21, 2019


Steven A. Ramos, Chair
Indiana Civil Rights Commission

Certificate of Service

Served by certified mail on this 21 day of June on the following:

Creative Approach Realty, LLC
c/o/ Kelly Frank
10400 Corning Way
Fisher, IN 46038
Certified Mail Number:

9214 8901 0661 5400 0139 5399 03

Emily Torres
395 Devon Chase Hill
Unit Number 5703
Gallatin, TN 37066
Certified Mail Number:
(Also sent by uncertified mail)

9214 8901 0661 5400 0139 5402 44

And served personally on the following:

Frederick S. Bremer, Esq.; Staff Counsel
Indiana Civil Right Commission
Indiana Government Center North
100 North Senate Avenue, Room N300
Indianapolis, IN 46204-2255

Gregory L. Wilson, Executive Director
Indiana Civil Rights Commission
100 North Senate Avenue, Room N300
Indianapolis, IN 46204-2255

Naa Adoley Azu
ADR & Compliance Director
Indiana Civil Rights Commission
100 North Senate Avenue, Room N300
Indianapolis, IN 46204
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Docket Clerk,
Anehitia Eromosele

**STATE OF INDIANA
INDIANA CIVIL RIGHTS COMMISSION**

GREGORY L WILSON, SR., in his)	
official capacity as Executive Director of)	ICRC No. HOha17061143
the Indiana Civil Rights Commission,)	
)	HUD No. 05-17-8434-8
Complainant,)	
)	DATE FILED
v.)	MAY 03 2019
)	
CREATIVE APPROACH REALTY, LLC,)	ICRC
)	COMMISSION
Respondent.)	

**ADMINISTRATIVE LAW JUDGE'S PROPOSED
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

On February 15, 2019, a hearing was held before the undersigned Commissioner for the Indiana Civil Rights Commission (the "Commission") at the Commission's permanent offices at Indianapolis, Indiana. Complainant, Gregory L. Wilson, Sr., in his official capacity as the Executive Director of the Indiana Civil Rights Commission, appeared by ICRC Staff Counsel, Frederick S. Bremer. Respondent, Creative Approach Realty, LLC, participated through Kelly Frank ("Frank"), a member of Respondent LLC. After considering the evidence and arguments presented at the February 15, 2019, hearing and being duly advised in the premises, the Commissioner finds as follows.

PROCEDURAL POSTURE

This order concerns a complaint filed by Complainant on June 13, 2017. Following the issuing of a Notice of Finding by the Executive Director, litigation commenced as captioned above. In the course of litigation, Complainant moved for summary judgment. The merits of Complainant's summary judgment motion were considered by Commissioner Adrienne Slash acting as the Commission's duly appointed Administrative Law Judge (ALJ). After due

consideration, the ALJ issued a proposed order granting summary judgment on November 16, 2018. The ALJ's proposed order was adopted by the Commission in its order issued December 26, 2018. This order was dispositive as to the issue of Respondent's liability.

Pursuant to the Commission's December 26 order, a hearing on damages was set for February 15, 2019. Prior to the hearing, Complainant moved for leave to make an offer of proof at the damages hearing in order to correct findings of fact and conclusions of law contained in the ALJ's proposed order as adopted by the Commission.

In light of Complainant's motion for leave, the Commissioner accepted arguments and evidence from the parties regarding damages and Complainant's proposed corrections to the Commission's order at the February 15, 2019, hearing. Complainant's Exhibit 1 ("CX-1"), CX-2, parts 1, 2, and 3; CX-3, part 1; CX 4, parts 1, 2, 3, and 4; CX-5; CX-6; CX-7; CX-8 and CX-11 were admitted into evidence without objection.

FINDINGS OF FACT

1. These findings of fact are supplemental to the findings of fact adopted by the Commission in its December 26, 2018, order granting Defendant's motion for summary judgment as amended by the Order below.

2. On December 26, 2018, the Commission adopted the Findings of Fact, Conclusions of Law and Order proposed by the Administrative Law Judge on November 16, 2018. Pursuant to the Commission's order granting summary judgment, Respondent, by the actions of Kelly Frank, violated the Indiana Fair Housing Act by (1) failing to provide a reasonable accommodation to Emily Torres and by (2) offering Torres less favorable terms and conditions during the sale of her home.

3. The Commission's December 26, 2018, order was dispositive as to the matter of Respondent's liability.

Corrections to Proposed Order

4. On January 30, 2019, Complainant filed Complainant's Motion for Leave to Make an Offer of Proof in the Damages Hearing to Correct Finding of Fact and Conclusions of Law in Support of Order Granting Summary Judgment. The Commissioner granted Complainant's Motion for Leave.

5. At the February 15, 2019, hearing Complainant made an oral motion for the ALJ's November 16, 2018, proposed order as adopted by the Commission to be amended to correct certain errors. The Commissioner received arguments from the parties as to Complainant's motion.

6. The ALJ's November 16, 2018, proposed order as adopted by the Commission in its December 26, 2018, order states in Conclusion of Law 7 that "[a]lthough Respondent attempted to accommodate Emily Torres in different ways, the accommodations provided did allow Emily Torres independently read the legal documents and did not comply with her request."

7. Conclusion of Law 7 contained an inadvertent typographical error that does not follow from the Commission's findings of fact and that does not reflect the Conclusions of Law drawn by the Commission.

8. The ALJ's November 16, 2018, proposed order as adopted by the Commission in its December 26, 2018, order states in Finding of Fact 7 that "[p]rior to October 8, 2016, one (1) legal documents was generated: 1) the realtor contact. Respondent did not provide Emily Torres with copies of the legal documents generated before October 8, 2016 in the format she had requested until November 16, 2016."

9. The weight of the evidence before the Commission does not support a finding that Respondent presented Emily Torres with a realtor contract prior to October 8, 2016. Rather, the evidence shows that Respondent provided Emily Torres and her spouse, Francisco Torres, with the realtor contract on October 8, 2016. Finding of Fact 7 contained an inadvertent typographical error that does not reflect the Commission's factual findings.

Damages

10. As a consequence of Respondent's violation of the Fair Housing Act as determined by the Commission's December 26, 2018, order granting summary judgment, Emily Torres was subject to emotional distress, to wit:

- a. As a result of Respondent's unlawful conduct, Emily Torres suffered stress that manifested in physical symptoms including pain and swelling of her jaw. These symptoms were severe enough to delay dental treatment. (T. 70-71; T. 83).
- b. Respondent, by Frank, expressed to Emily Torres that he did not know what he could do to help her, which representation upset and angered Torres to the point that she screamed at Frank on the phone. (T. 65; T. 81-82).
- c. Frank showed up unannounced at Emily Torres's house at night on more than one occasion, causing Torres to feel upset, uncomfortable, and fearful of Frank. (T. 80, 82-83).
- d. Respondent's failure to reasonably accommodate Torres caused her to feel trapped in a stressful business entanglement, as a result of which Torres was upset and distressed. (T. 70; T. 85-86).
- e. Respondent, by Frank, represented to Torres that she did not require an accommodation because her husband would be able to read documents she

required. This statement caused Torres distress, was an insult to Torres, and was an affront to Torres's personal agency. (T. 78).

11. Emily Torres, as the aggrieved person, requested under oath monetary damages for emotional distress in the amount of thirty thousand dollars (\$30,000). (T. 89).

12. In order to vindicate the public interest and to effectuate the purposes of the Indiana Civil Rights Act, it is necessary to award monetary damages to Emily Torres, the aggrieved person, and to order affirmative relief.

13. Emily Torres is entitled to monetary damages sufficient to compensate her for the emotional distress caused by Respondent's discriminatory conduct and practices. An award of ten thousand dollars (\$10,000) is appropriate relief in this case.

CONCLUSIONS OF LAW

14. These Conclusions of Law are supplemental to the conclusions of law adopted by the Commission in its December 26, 2019, order granting summary judgment as amended by the Order below.

15. If the Commission finds that a person has committed an unlawful discriminatory practice, it shall issue an order requiring the person to cease and desist from that practice and requiring that person to take such affirmative action as will effectuate the purposes of the Indiana Civil Rights Law. Ind. Code 22-9-1-6(k). Appropriate affirmative relief may include restoring complainant's losses and requiring Respondent to file proof of compliance. *Id.*

16. If the Commission finds that a person has engaged in discriminatory housing practices, it is empowered to order appropriate relief, including actual damages, to the aggrieved person and to vindicate the public interest. Ind. Code 22-9.5-6-15. The Commission is further

empowered to assess against Respondent a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation of the Indiana Fair Housing Act. *Id.*

17. The Commission's power to award actual damages includes the power to award monetary relief to compensate for emotional distress losses. *Ind. Civil Rights Comm'n v. Alder*, 714 N.E.2d 632 (Ind. 1999).

18. Emily Torres is entitled to monetary damages sufficient to compensate her for the emotional distress caused by Respondent's discriminatory conduct and practices.

19. Administrative review of this proposed decision may be obtained by filing a writing identifying with reasonable particularity the bases of each objection within fifteen (15) days after service of this proposed decision.

20. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such.

ORDER

It is hereby ORDERED that:

1. Complainant's oral motion to correct findings of fact and conclusions of law in the ALJ's November 16, 2018, Proposed Order adopted by the Commission in its December 26, 2018, Order is GRANTED.

2. Conclusion of Law 7 of the ALJ's Proposed Order as adopted by the Commission's December 26 order is amended to read: "As explained by the Seventh Circuit Court of Appeals, an alternative accommodation that does not meet the requesting party's needs does not meet the requirements of fair housing law. *Janowski Lee & Assocs. v. Cisneros*, 91 F.3d 891, 896 (7th Cir. 1996), as amended (Aug. 26, 1996). Although Respondent attempted to accommodate Emily

Torres in different ways, the accommodations provided did not allow Emily Torres to independently read the legal documents and did not comply with her request.”

3. Finding of Fact 7 of the ALJ’s Proposed Order as adopted by the Commission’s December 26 order is amended to read: “On October 8, 2016, one (1) legal document was generated: 1) the realtor contract. Respondent did not provide Emily Torres with copies of the legal documents generated before October 8, 2016 in the format she had requested until November 16, 2016.”

It is further ORDERED that:

4. Respondent cease from engaging in any unlawful discriminatory conduct or practice in violation of the Indiana Civil Rights Law, the Indiana Fair Housing Act, the federal Fair Housing Act, or the Americans with Disabilities Act.

5. Respondent deliver to Torres within thirty (30) days of the effective date of this Order a check made payable to Torres in the amount of ten thousand (\$10,000) to compensate her for actual damages suffered in the form of emotional distress as a result of Respondent’s unlawful discriminatory conduct.

6. Respondent deliver to the ICRC within thirty (30) days of the effective date of this Order a check made payable to the ICRC in the amount of ten thousand dollars (\$10,000), five thousand dollars (\$5,000) for each violation of the Indiana Fair Housing Act.

7. Respondent comply with the following as affirmative relief:

- a. Respondent, by its agent Kelly Frank, shall submit to the ICRC and deliver to Emily Torres within thirty (30) days a letter of apology addressed to Emily Torres acknowledging the unlawfulness of Respondent and Kelly Frank’s conduct and the emotional distress caused thereby.


- b. Respondent shall, within thirty (30) days, adopt a policy providing for the organized and timely processing of all requests, written or verbal, by individuals with disabilities seeking accommodation in Respondent's forms, practices, and procedures, in accordance with the requirements of the federal Fair Housing Act and the Indiana Fair Housing Act. Respondent shall develop forms to implement the policy. Respondent shall submit the policy and forms to the ICRC for their approval. Upon approval, Respondent shall immediately implement the policy and start using the forms.
- c. Respondent shall, within thirty (30) days, incorporate language into its standard listing contract language that discloses Respondent's obligation to accommodate by its forms, practices, and procedures the disabilities of all those listing or seeking to list property for sale with Respondent.
- d. Respondent shall, within six (6) months, cause Respondent's LLC managers, officers, associated salespersons and broker salespersons to attend a one hour training on the provisions and requirements of the Fair Housing Act and the Indiana Fair Housing Act. This training must be approved by the ICRC.
- e. Respondent shall, within six (6) months, cause Respondent's LLC managers, officers, associated salespersons and broker salespersons to attend a one hour disability awareness training regarding topics such as person-first language, disability sensitivity training, and cultural

competence related to disability issues. This training must be approved by the ICRC.

8. Within fifteen (15) days of each requirement's completion, Respondent submit evidence of its compliance with the foregoing provisions to Adoley Azu, ICRC Alternative Dispute Resolution and Compliance Program Director.

9. Pursuant to the Commission's statutory obligations under Indiana Code § 22-9.5-6-17, a copy of these findings, conclusions, and order shall be sent within thirty (30) days after the issuance of this Order to the Indiana Real Estate Commission for appropriate disciplinary action.

10. This Order shall be effective once approved and signed by a majority of the Indiana Civil Rights Commission unless modified pursuant to Ind. Code 4-21.5-3-31(a), stayed pursuant to Ind. Code 4-21.5-3-31(b), or stayed by a court of competent jurisdiction.



Hon. Adrienne Slash
Commissioner and Administrative Law Judge
Indiana Civil Rights Commission
Indiana Government Center North
100 N. Senate Avenue, Rm. N300
Indianapolis, Indiana 46204
Anehitia Eromosele, Docket Clerk
(317) 234-6358

Certificate of Service

Served this 6 day of May by United States Mail on the following:

Emily Torres
395 Devon Chase Hill
Unit Number 5703
Gallatin, TN 37066

9214 8901 0661 5400 0139 5402 44

Creative Approach Realty, LLC
c/o/ Kelly Frank
10400 Corning Way
Fishers, IN 46038
kfrank@creativeapproachrealty.com
kellyfrank777@hotmail.com

9214 8901 0661 5400 0137 8657 07

and personally served on the following attorney of record:

Fred S. Bremer, Esq.; ICRC Staff Attorney
Indiana Civil Rights Commission
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Indiana Government Center North
100 North Senate Avenue, Room N300
Indianapolis, IN 46204-2255



Docket Clerk,
Anehitia Eromosele

**STATE OF INDIANA
INDIANA CIVIL RIGHTS COMMISSION**

GREGORY L. WILSON SR., in is official capacity as
EXECUTIVE DIRECTOR of the INDIANA CIVIL
RIGHTS COMMISSION,

Complainant,

vs.

CREATIVE APPROACH REALTY, LLC.,

Respondent.

) Docket No.: HOha17061143

) HUD No.: 05-17-8434-8

DATE FILED

DEC 26 2018

ICRC
COMMISSION

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

On November 16, 2018, Commissioner Adrienne Slash for the Indiana Civil Rights Commission ("ICRC") issued a decision on Complainant's Motion for Summary Judgment. The parties had opportunity to object to the Order; neither party objected. After due consideration of the record in this matter and the Order, the Commission adopts the following:

FINDINGS OF FACT

The Commission adopts and incorporates the proposed findings of fact as stated in the decision issued by Commissioner Slash on November 16, 2018, a copy of which is attached hereto and incorporated herein by reference.

CONCLUSIONS OF LAW

The Commission adopts and incorporates the proposed conclusions of law as stated in the decision issued by Commissioner Slash on November 16, 2018, a copy of which is attached hereto and incorporated herein by reference.

ORDER

The Commission adopts and incorporates the order as stated in the issued by Commissioner Slash on November 16, 2018, a copy of which is attached hereto and incorporated herein by reference.

Adopted by the Commission by the affirmative vote of 6 Commissioners on
December 21, 2018

Holli Harrington
Holli Harrington, Vice Chair
Indiana Civil Rights Commission

Certificate of Service

Served this 26 day of December by United States Mail on the following:

Emily Torres
395 Devon Chase Hill
Unit Number 5703
Gallatin, TN 37066

Creative Approach Realty, LLC
c/o/ Kelly Frank
10400 Corning Way
Fisher, IN 46038

and personally served on:

Gregory L. Wilson, Executive Director
Indiana Civil Rights Commission
100 North Senate Avenue, Room N300
Indianapolis, IN 46204-2255

Fred S. Bremer, Esq.; Staff Counsel
Indiana Civil Right Commission
Indiana Government Center North
100 North Senate Avenue, Room N300
Indianapolis, IN 46204-2255



Docket Clerk of the Indiana Civil Rights Commission,
Anehitia Eromosele

**STATE OF INDIANA
INDIANA CIVIL RIGHTS COMMISSION**

GREGORY L. WILSON, SR., in his official
capacity as EXECUTIVE DIRECTOR of the
INDIANA CIVIL RIGHTS COMMISSION,
Complainant,
vs.
CREATIVE APPROACH REALTY, LLC,
Respondent.

Docket No.: HOha17061143
HUD No.:
05-17-8434-8

DATE FILED
NOV 16 2018
ICRC
COMMISSION

**NOTICE OF APPOINTMENT OF A COMMISSIONER; PROPOSED FINDINGS OF
FACT AND CONCLUSIONS OF LAW; AND NOTICE OF HEARING ON DAMAGES**

PLEASE TAKE NOTICE that, pursuant to IC 4-21.5-3-9(a)(2) and 910 IAC 1-1.5-13, the Commission of the Indiana Civil Rights Commission appointed Commissioner Slash, the Chair of the Indiana Civil Rights Commission, to serve as Presiding Officer over this matter. The former ALJ Hon. John F. Burkhardt no longer presides over this matter.

ORDER ON COMPLAINANT'S MOTION FOR SUMMARY JUDGMENT

On August 31, 2018, Complainant Gregory L. Wilson Sr. in his official capacity as Executive Director of the Indiana Civil Rights Commission ("Complainant"), by counsel, filed Complainant's Motion for Summary Judgment, Brief in Support, and Designation of Evidence ("MSJ"), to which Respondent Creative Approach Realty, LLC. ("Respondent") did not file a Response. Complainant did not submit a Reply Brief, and Respondent did not submit a Surreply. The undersigned Commissioner for the ICRC has reviewed Complainant's brief and supporting documents and being duly advised in the premises, proposes that the ICRC enter the following proposed findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. On June 13, 2017, Emily Torres filed a complaint with the Department of Housing and Urban Development that was transferred to the Indiana Civil Rights Commission on July 3, 2017 against Respondent, alleging Respondent discriminated against her in a housing

transaction on the basis of disability by failing to provide a reasonable accommodation and by offering her different terms, conditions, privileges, and/or services and facilities.

2. Emily Torres and her spouse hired Respondent to assist them with the sale of their home in October of 2016, and the agent assigned to the sale was Kelly Frank, Respondent's CEO.
3. Emily Torres is an individual who is legally blind, a disability, which Respondent knew, though Kelly Frank, in October of 2015 when Kelly Frank first began discussing the possibility of assisting Emily Torres with the sale of her home. Emily Torres' spouse does not have a disability.
4. On October 8, 2016, Emily Torres asked Respondent, through Kelly Frank, to provide enlarged, printed copies of legal documents pertaining to the sale of her home.
5. After October 8, 2016, several legal documents concerning the sale of Emily Torres' home were generated: 1) two (2) offers on the home; 2) an inspection report; 3) the buyer's inspection response; 4) rental agreement; and 5) closing documents.
6. Respondent did not provide Emily Torres with copies of the legal documents generated after October 8, 2016 in the format she had requested until November 16, 2016, the day before the closing of the sale of her house on November 17, 2016. At the time she received the documents in the requested format, the associated deadlines for the documents has passed, with the exception of the closing documents.
7. Prior to October 8, 2016, one (1) legal documents was generated: 1) the realtor contract. Respondent did not provide Emily Torres with copies of the legal documents generated before October 8, 2016 in the format she had requested until November 16, 2016.
8. Respondent provided copies of the legal documents associated with the sale of Emily Torres' home to her as electronic documents that did not allow her to change the font size of the text and reviewed the documents with her verbally or enlarged on his laptop at the time that she signed them.
9. The cost to Respondent to make the copies of the legal documents provided to Emily Torres on November 16, 2016 was \$5.80.
10. Any Conclusions of Law that should have been deemed a Finding of Fact is hereby adopted as such.

CONCLUSIONS OF LAW

1. ICRC has subject matter jurisdiction over complaints of housing discrimination under the Indiana Fair Housing Act, and where a complaint has been filed, ICRC has jurisdiction over the parties. Ind. Code § 22-9-1-6(d); Ind. Code § 22-9.5-4-1(a). Respondent is a company that assists in the sale of residential property, and accordingly, Respondent is covered by the Indiana Fair Housing Act. Ind. Code 22-9.5-5-6(b); Ind. Code 22-9.5-5-6(a)(2).
2. A party to an administrative proceeding can "...move for a summary judgment..." which must be considered under Indiana Rule of Trial Procedure 56. Ind. Code § 4-21.5-3-23(a); Ind. Code § 4-21.5-3-23(b). Summary judgment is only appropriate where "...there is no genuine issue as to any material fact..." and "...the moving party is entitled to a judgment as a matter of law." Ind. R. Tr. Pro. 56(c).
3. To succeed on a Motion for Summary Judgment, the moving party must "...show that its designated evidence, with all conflicts, doubts, and reasonable inferences resolved in the non-moving party's favor, affirmatively negates the non-moving party's claim." *Ellis v. Keystone Constr. Corp.*, 82 N.E.3d 920, 924 (Ind. Ct. App. 2017). Importantly, even where a party fails to respond to a motion for summary judgment, the moving party must still meet his or her burden based on the designated evidence before summary judgment is appropriate. Ind. R. Tr. Pro. 56(c). "Unsworn statements and unverified exhibits do not qualify as proper Rule 56 evidence." *Indiana Univ. Med. Ctr., Riley Hosp. for Children v. Logan*, 728 N.E.2d 855, 858 (Ind. 2000).
4. Complainant makes two claims under the Indiana Fair Housing Act: 1) Respondent discriminated against Emily Torres on the basis of disability by failing to make a reasonable accommodation and 2) Respondent discriminated against Emily Torres on the basis of disability by providing different terms and conditions of service to her. When interpreting the Indiana Fair Housing Act, Indiana courts look to federal precedent under the Federal Fair Housing Act. *State, Civil Rights Com'n v. County Line Park, Inc.*, 738 N.E.2d 1044, 1048 (Ind. 2000).
5. To prove failure to accommodate, Complainant must establish that 1) Emily Torres was qualified to use Respondent's services and had a disability, 2) Respondent knew about the disability, and 3) Respondent unreasonably failed to accommodate the disability. *Hite v. Zender Family L.P.*, ICRC No. HOha13041057 (ICRC 2017), available at

[https://www.in.gov/icrc/files/ICRC\(MEYER\)_Final%20Order_Proposed%20Order.pdf](https://www.in.gov/icrc/files/ICRC(MEYER)_Final%20Order_Proposed%20Order.pdf).

Complainant has established that Emily Torres had a disability and that Respondent was aware of the disability at the time Respondent was assisting Emily Torres to sell her home.

6. An accommodation is unreasonable if it imposes an undue financial and administrative burden or if it materially alters the fundamental nature of the Respondent's business. *Dadian v. Vill. Of Wilmette*, 269 F.3d 831, 839 (7th Cir. 2001). Respondent provided copies of legal documents in the course of its business, and the cost of providing enlarge copies was minimal. Additionally, other similar professionals were able to promptly comply with Emily Torres request. Accordingly, the requested accommodation was reasonable.
7. As explained by the Seventh Circuit Court of Appeals, an alternative accommodation that does not meet the requesting party's needs does not meet the requirements of fair housing law. *Janowski Lee & Assocs. v. Cisneros*, 91 F.3d 891, 896 (7th Circ. 1996), as amended (Aug. 26, 1996). Although Respondent attempted to accommodate Emily Torres in different ways, the accommodations provided did allow Emily Torres independently read the legal documents and did not comply with her request.
8. To succeed on a claim of different terms and conditions, Complainant must establish: 1) Emily Torres had a disability and 2) Emily Torres was treated differently than individuals working with Respondent who did not have a disability. *Bischoff v. Brittain*, 183 F. Supp. 3d 1080, 1089 (E.D. Cal. 2016). Additionally, Complainant must prove that any nondiscriminatory rational used by Respondent is pretext. *Id.*
9. Emily Torres had a disability. Respondent provided copies of the relevant legal documents to her spouse, a client engaged in the selling of the home who did not have a disability. Although Respondent attempted to provide copies of the legal documents to Emily Torres verbally and in electronic format, the documents were not provided in a format that allowed Emily Torres to read the documents. Emily Torres' spouse was provided copies of documents that he could read independently; Emily Torres was not.
10. Respondent failed to provide a reasonable accommodation and offered Emily Torres less favorable terms and conditions during the sale of Emily Torres' home in violation of the Indiana Fair Housing Act. Ind. Code 22-9.5-5-5(c); Ind. Code 22-9.5-5-(b).

11. Administrative review of this proposed decision may be obtained by filing written objections that specify with reasonable particularity the basis for each objection. The written objections must be filed within 15 days of service of this proposed decision. Ind. Code 4-21.5-3-29(d).
12. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such.

IT IS THEREFORE ORDERED:

1. Complainant's Motion for Summary Judgment is **GRANTED**.
2. **PLEASE TAKE NOTICE** that if this Proposed Findings of Fact, Conclusions of Law, and Order is approved by the Commission, a Damages Hearing will be held by the Commissioner with the parties on **March 15, 2018 10:00 A.M.**, Eastern Standard Time. Details concerning the hearing will be sent in a formal Notice of Hearing, issues only after confirmation of this Proposed Findings of Fact, Conclusions of Law, and Order.
 - a. **Participation:** Any party may participate in a proceeding in person or, if the party is not an individual or is incompetent to participate, by a duly authorized representative. Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, unless prohibited by law, by another representative. IC 4-21.5-3-15. Attorneys representing a party must file an appearance. Where a party is represented by counsel, at least one (1) attorney planning to take part in the Hearing shall appear for such party and participate in the Final Prehearing Conference. 910 IAC 1-9-1(c). When a complainant has elected to have the case in support of the complaint presented by the ICRC's Staff Attorney, the ICRC's Staff Attorney may appear at the Final Prehearing Conference on behalf of such complainant. *Id.* However, when a party chooses to proceed without counsel before the ICRC at a Final Hearing, that party shall appear personally at the Final Prehearing Conference. *Id.*
 - b. **Default:** A party who fails to attend or participate in a prehearing conference, hearing, or other later stage of the proceeding may be held in default or have a proceeding dismissed. IC 4-21.5-3-18(d)(8).
 - c. **Resolution of the Matter:** The parties must notify the Presiding Officer of settlement. If a joint motion to dismiss or request for withdrawal is made after the case has been set for Hearing, the written consent of a majority of the Commissioners shall be

obtained. 910 IAC 1-2-6. Notification of a settlement will not result in the closure of the complaint unless accompanied by a written motion for dismissal or withdrawal.

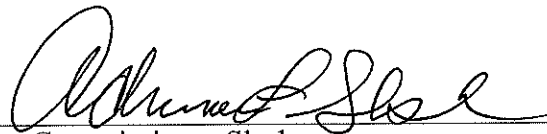
- d. **Filing:** Subject to IC 4-21.5-3-1, the filing of a document in proceedings before the ICRC's Commission can be completed by mail, personal service, fax, or electronic mail to:

**Docket Clerk
c/o Indiana Civil Rights Commission
100 North Senate Avenue, N300
Indianapolis, IN 46204
Fax: 317-232-6580
Email: aneromosele@icrc.in.gov**

A party shall serve copies of any filed item on all parties. IC 4-21.5-3-17(c).

- e. **Contact Information:** The name, official title, and mailing address of the Presiding Officer and a telephone number through which information concerning schedules and procedures may be obtained, is included below. **However, all *ex parte* contacts – direct or indirect communications regarding any issue in the pending proceeding without notice and opportunity for all parties to participate in the communication – are forbidden by law.** Repeat: a party shall serve copies of any filed item on **all parties**. IC 4-21.5-3-17(c). The attached Certificate of Service includes the names and mailing addresses of all known parties and other persons to whom notice is being given. IC 4-21.5-3-18(d)(1).

Dated this 16th day of November, 2018



Commissioner Slash
Indiana Civil Rights Commission
100 North Senate Avenue, Room N300
Indianapolis, IN 46204-2255
Anehitia Eromosele, Docket Clerk
317/234-6358

Certificate of Service

Served this 16 day of NOVEMBER by United States Mail on the following:

Emily Torres
395 Devon Chase Hill
Unit Number 5703
Gallatin, TN 37066
Certified mail Number: 9214 8901 0661 5400 0130 6887 85

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c/o/ Kelly Frank
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Fishers, IN 46038
kfrank@creativeapproachrealty.com
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