

**In The Matter Of:**  
*STATE OF INDIANA*  
*CIVIL RIGHTS COMMISSION*

---

*May 15, 2020*

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*WILLIAM F. DANIELS, D/B/A ACCURATE REPORTING OF INDIANA*  
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BEFORE THE STATE OF INDIANA  
CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF MAY 15, 2020

- - -

PROCEEDINGS

in the above-captioned matter, before the Indiana  
Civil Rights Commission, Adrienne L. Slash,  
Chairperson, taken before me, Lindy L. Meyer,  
Jr., a Notary Public in and for the State of  
Indiana, County of Shelby, all participants  
appearing telephonically, on Friday, May 15, 2020  
at 1:07 o'clock p.m.

- - -

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

1 APPEARANCES:

2 COMMISSION MEMBERS:

3 Adrienne L. Slash, Chairperson  
4 Alpha Blackburn  
5 Steven A. Ramos  
6 Holli Harrington  
7 James W. Jackson

8 INDIANA CIVIL RIGHTS COMMISSION  
9 By Tim Schultz, Deputy Director  
10 Indiana Government Center North  
11 100 North Senate Avenue, Room N300  
12 Indianapolis, Indiana 46204  
13 On behalf of the Commission.

14 OTHER COMMISSION STAFF PRESENT:

15 Caroline Stephens Ryker  
16 Micah Benson  
17 Michael C. Healy

18 ALSO PRESENT:

19 Rick C. Gikas  
20 Linda Williams

21 - - -  
22  
23

1 1:07 o'clock p.m.  
2 May 15, 2020

3 - - -

4 CHAIRPERSON SLASH: Okay. I believe  
5 that we're all here and ready, so with that being  
6 said, I'd like to call the May 2020 meeting of  
7 the Indiana Civil Rights Commission to order at  
8 1:07 p.m. And having established a quorum and  
9 all of us being here and present, if you'd like  
10 to begin by presenting the agenda.

11 JUDGE STEPHENS RYKER: Okay. So, as  
12 far as the agenda, with Old Business, there are a  
13 number of appeals on which the Commission needs  
14 to make a report. For New Business, there is one  
15 appeal for the Chair to assign to a Commissioner,  
16 there is one precause motion to be assigned to a  
17 Commissioner or for the Commission to take action  
18 on, and then there a number of ALJ decisions that  
19 need to be reviewed, including an oral argument  
20 that's scheduled for today, and then  
21 additionally, there are the meeting dates for  
22 2020, a period of announcement, and a period of  
23 public comment.

CHAIRPERSON SLASH: Thank you.

1           And good afternoon. Did we just have  
2 someone else join us?

3                           (No response.)

4           COMM. BLACKBURN: It sounded like it.

5           CHAIRPERSON SLASH: Uh-huh. Okay.

6           So, we'll go ahead and we'll get started. So, at  
7 this time, I'd like to have a motion for the  
8 approval of our previous meeting minutes.

9           COMM. RAMOS: So moved.

10          COMM. BLACKBURN: So moved.

11          CHAIRPERSON SLASH: Okay. Since we  
12 are on the phone, if you could announce yourself  
13 and then motion.

14          COMM. RAMOS: Vice-Chair Ramos, so  
15 moved.

16          CHAIRPERSON SLASH: Thank you.

17                Is there a second?

18          COMM. BLACKBURN: Blackburn, second.

19          CHAIRPERSON SLASH: Thank you. It's  
20 been moved and seconded. All in favor? If you  
21 would please announce yourself -- I'm sorry. I  
22 need to go through the entire roll. I'll get  
23 myself together here. We'll start with

1 Vice-Chair Ramos.

2 COMM. RAMOS: Aye.

3 CHAIRPERSON SLASH: Comm. Blackburn?

4 COMM. BLACKBURN: Aye.

5 CHAIRPERSON SLASH: Comm. Harrington?

6 COMM. HARRINGTON: Aye.

7 CHAIRPERSON SLASH: Comm. Jackson?

8 COMM. JACKSON: Aye.

9 CHAIRPERSON SLASH: Chair slash, aye.

10 Motion carries. Thank you.

11 We'll now hear the Director's Report.

12 MR. SCHULTZ: Good afternoon. This  
13 is Deputy Director Tim Schultz with the Civil  
14 Rights Commission. I hope everyone's having a  
15 good day so far. As far as the Director's  
16 Report, that information should have been  
17 provided to all of the Commission Members.

18 So, the information at a glance, as many  
19 people might expect, the number of our metrics  
20 have declined over the last month, the month of  
21 April. That certainly is to be expected given  
22 all of the -- the situation that we're facing  
23 right now, which is, of course, unprecedented.

1           So, we've seen a number of inquiries,  
2     drafts of inquiries, and then formalized  
3     complaints go down in the month of April. The  
4     biggest area that we've seen a decrease in is  
5     actually in employment inquiries. Our housing  
6     and education and public accommodation inquiries  
7     have remained rather consistent. And, of course,  
8     the number of employment inquiries going down may  
9     be reflected -- or may be a reflection of the  
10    fact that a number of people are, you know,  
11    staying at home pursuant to the Governor's order.

12           The one thing I would like to note,  
13    though, is our social media presence. The agency  
14    has been increasing our efforts to make sure that  
15    people know that the office is still open, we are  
16    still accepting inquiries, we are still accepting  
17    complaints. We're trying to get information out  
18    there, relevant information.

19           So, for example, last month, on  
20    April 28th, the agency hosted a Webinar on fair  
21    housing, which cert -- summarized the fair  
22    housing laws, but also addressed some issues that  
23    people are experiencing now in light of the

1 current health crisis. That was attended at the  
2 time by, I believe, approximately 200  
3 individuals, so a really --

4 COMM. BLACKBURN: Wonderful.

5 MR. SCHULTZ: -- great turnout. I'm  
6 sorry?

7 COMM. BLACKBURN: I'm sorry.

8 Wonderful.

9 MR. SCHULTZ: Yeah. We were really  
10 happy with it. ALJ Ryker, myself, and another  
11 presenter kind of went through some -- just the  
12 fair housing laws, some issues that were -- that  
13 we've been getting questions about regarding  
14 some -- the foreclosure and eviction moratoriums  
15 that are currently in place, as well as some  
16 additional resources for people who are, you  
17 know, currently experiencing some difficulties  
18 right now.

19 The Webinar is currently available on our  
20 Web site and has continued to be accessed a  
21 number of times, so in addition to the 200 or so  
22 people that watched it live, we've had a number  
23 of people watch it since that time, and while --



1 COVID-related issues. For -- the majority of  
2 those inquiries are relating to employment  
3 housing, which is not much of a surprise, but we  
4 do -- we've been tracking that metric since the  
5 end of March. We continue to track it, and  
6 obviously as that -- those inquiries and those  
7 related complaints develop, that will be  
8 something that we will continue to present on.

9 Thank you.

10 JUDGE STEPHENS RYKER: Thank you.

11 CHAIRPERSON SLASH: Thank you for  
12 sharing that report.

13 COMM. BLACKBURN: I do have one  
14 question. If, in light of the fact that most of  
15 our complaints come from Marion County, I am  
16 curious to know if there were questions on-line  
17 related to evictions due to employment from  
18 HIV -- I'm sorry -- from COVID-19.

19 MR. SCHULTZ: Yeah, that's a great  
20 question. We did receive some questions during  
21 the Webinar relating to foreclose and evictions.  
22 I'm afraid I don't have a list of all of those  
23 questions in front of me. I don't know if there

1 was one quite as specific to COVID-19 as your --  
2 as you've asked.

3 Most of the questions, I think, were more  
4 about, you know, what happens when the moratorium  
5 ends as far as, you know, outstanding, you know,  
6 mortgage or rent payments and, you know, what  
7 might happen to individuals who have missed  
8 payments.

9 So, those are the types of questions we  
10 were fielding. I don't recall receiving any  
11 questions specific to COVID-19. It was more just  
12 the -- what happens next is a lot of the  
13 questions. They want to know what happens after  
14 we're done -- we're in the next phase.

15 COMM. BLACKBURN: Thanks.

16 CHAIRPERSON SLASH: Thank you. And  
17 thank you for continuing such great programming  
18 also, and ability to connect virtually. We want  
19 to get that on the record, that the Commission  
20 has still been very visible, and I thank you all  
21 for that.

22 Are there any other questions from  
23 Commissioners?

1 (No response.)

2 CHAIRPERSON SLASH: Okay. Hearing  
3 none, at this time we will go ahead and move on  
4 to Old Business. So, in the case of Castillo  
5 versus -- I don't want to mess this name up --  
6 Arcelormittal USA, Comm. Ramos?

7 COMM. RAMOS: In the case just  
8 mentioned, I recommend that we uphold the  
9 Director's finding of no probable cause.

10 CHAIRPERSON SLASH: Is there a  
11 motion?

12 COMM. JACKSON: So moved,  
13 Comm. Jackson.

14 CHAIRPERSON SLASH: Thank you.  
15 Is there a second?

16 COMM. HARRINGTON: Second,  
17 Comm. Harrington.

18 CHAIRPERSON SLASH: All in favor,  
19 starting with Comm. Blackburn.

20 COMM. JACKSON: Aye.

21 CHAIRPERSON SLASH: I believe that  
22 was Comm. Jackson, so Comm. Jackson is aye.

23 Comm. Blackburn?

1                   COMM. BLACKBURN: Aye.

2                   CHAIRPERSON SLASH: Comm. Harrington?

3                   COMM. HARRINGTON: Aye.

4                   CHAIRPERSON SLASH: Comm. Ramos?

5                   COMM. RAMOS: Aye.

6                   CHAIRPERSON SLASH: And Comm. Slash,  
7 aye. Motion carries.

8                   The next case that we have is McNeil  
9 versus Fast Lane Foods, Inc. and that is my case,  
10 and I move to uphold the Deputy Director's  
11 finding. I need a motion.

12                   COMM. RAMOS: Ramos, so moved.

13                   CHAIRPERSON SLASH: Thank you.

14                   Is there a second?

15                   COMM. JACKSON: Comm. Jackson,  
16 second.

17                   CHAIRPERSON SLASH: Thank you.

18                   Comm. Blackburn?

19                   COMM. BLACKBURN: Aye.

20                   CHAIRPERSON SLASH: Comm. Harrington?

21                   COMM. HARRINGTON: Aye.

22                   CHAIRPERSON SLASH: Comm. Jackson?

23                   COMM. JACKSON: Aye.

1 CHAIRPERSON SLASH: Comm. Ramos?

2 COMM. RAMOS: Aye.

3 CHAIRPERSON SLASH: And Comm. Slash,  
4 aye. Motion carries.

5 In the next case, Alinstant versus Toyota,  
6 Comm. Blackburn?

7 COMM. BLACKBURN: I recommend that we  
8 uphold the finding of no probable cause.

9 CHAIRPERSON SLASH: Thank you.

10 Is there a motion?

11 COMM. RAMOS: Ramos, I --

12 COMM. JACKSON: Jackson, so moved.

13 CHAIRPERSON SLASH: Okay. I heard a  
14 motion from Comm. Ramos and a second from  
15 Comm. Jackson. All in favor, Comm. Blackburn?

16 COMM. BLACKBURN: Aye.

17 CHAIRPERSON SLASH: Comm. Harrington?

18 COMM. HARRINGTON: Aye.

19 CHAIRPERSON SLASH: Comm. Jackson?

20 COMM. JACKSON: Aye.

21 CHAIRPERSON SLASH: Comm. Ramos?

22 COMM. RAMOS: Aye.

23 CHAIRPERSON SLASH: And Comm. Slash,

1 aye. Motion carries.

2 In the next case, Brashier -- or Brasher  
3 versus Sakitumi Lounge. How did you find,  
4 Comm. Harrington?

5 COMM. HARRINGTON: In the case of  
6 Brasher versus Sakitumi Lounge, I recommend that  
7 we uphold the finding of no probable cause.

8 CHAIRPERSON SLASH: Thank you.

9 Is there a motion?

10 COMM. BLACKBURN: I move we accept.

11 CHAIRPERSON SLASH: Thank you,  
12 Comm. Blackburn.

13 Is there a second?

14 COMM. JACKSON: Comm. Jackson,  
15 second.

16 CHAIRPERSON SLASH: Okay. All in  
17 favor, starting with Comm. Blackburn?

18 COMM. BLACKBURN: Aye.

19 CHAIRPERSON SLASH: Comm. Harrington?

20 COMM. HARRINGTON: Aye.

21 CHAIRPERSON SLASH: Comm. Jackson?

22 COMM. JACKSON: Aye.

23 CHAIRPERSON SLASH: Comm. Ramos?

1                   COMM. RAMOS:   Aye.

2                   CHAIRPERSON SLASH:   And Comm. Slash,  
3   aye.   Thank you.

4                   In the next case -- hmm, I don't want to  
5   mispronounce this one -- Sienicki versus  
6   Le Jardin Homeowners, Comm. Jackson?

7                   COMM. JACKSON:   Uphold the Director's  
8   finding of no probable cause.

9                   CHAIRPERSON SLASH:   Thank you.

10                  Is there a motion?

11                  COMM. BLACKBURN:   I move we accept  
12   that recommendation, Comm. Blackburn.

13                  COMM. RAMOS:   Ramos, second.

14                  CHAIRPERSON SLASH:   And a second?  
15   Thank you.

16                  All in favor, starting with  
17   Comm. Blackburn?

18                  COMM. BLACKBURN:   Aye.

19                  CHAIRPERSON SLASH:   Comm. Harrington?

20                  COMM. HARRINGTON:   Aye.

21                  CHAIRPERSON SLASH:   Comm. Jackson?

22                  COMM. JACKSON:   Aye.

23                  CHAIRPERSON SLASH:   Comm. Ramos?

1                   COMM. RAMOS:   Aye.

2                   CHAIRPERSON SLASH:   Comm. Slash, aye.

3   Thank you.

4                   And the last case that we have in Old  
5   Business, in Ellison versus Blue River Bowl,  
6   Comm. Ramos?

7                   COMM. RAMOS:   Madam Chair, I  
8   recommend that we uphold the Director's finding  
9   of no probable cause.

10                  CHAIRPERSON SLASH:   Thank you.

11                  Is there a motion?

12                  COMM. JACKSON:   Comm. Jackson, I so  
13   move.

14                  CHAIRPERSON SLASH:   Thank you.

15                  Is there a second?

16                  COMM. HARRINGTON:   Comm. Harrington,  
17   second.

18                  CHAIRPERSON SLASH:   Thank you.

19                  All in favor, starting with  
20   Comm. Blackburn?

21                  COMM. BLACKBURN:   Aye.

22                  CHAIRPERSON SLASH:   Comm. Harrington?

23                  COMM. HARRINGTON:   Aye.

1 CHAIRPERSON SLASH: Comm. Jackson?

2 COMM. JACKSON: Aye.

3 CHAIRPERSON SLASH: Comm. Ramos?

4 COMM. RAMOS: Aye.

5 CHAIRPERSON SLASH: And Comm. Slash,  
6 aye. Thank you. And that's all for Old  
7 Business.

8 Moving to New Business, I'd like to  
9 appoint the case that we have before us in  
10 Muhirwa versus Norfolk Southern to Comm. Jackson,  
11 and that is the one that we have for appointment.

12 The next item we have in front of us, we  
13 have a motion. Judge Ryker, would you like to  
14 share anything other than what you did in the  
15 announcement?

16 JUDGE STEPHENS RYKER: No. Really,  
17 the only important information that's not  
18 included in the agenda is that this motion comes  
19 to the Commission prior to the issuance of a  
20 notice of finding.

21 CHAIRPERSON SLASH: Thank you.

22 And because it's a motion that was  
23 submitted this early in the case, I would like to

1 assign it to myself to review, since the motion  
2 has already been before us, and I will report the  
3 results next month.

4 Okay. And then now we'll move to the  
5 Review of ALJ Decisions and Orders.

6 JUDGE STEPHENS RYKER: So, of the  
7 decisions that are currently before the  
8 Commission, the first is Williams versus Golf  
9 View Apartments, ICRC No. HOrt13011688. The  
10 decision was issued on 12-13 of 2020, and it's  
11 currently scheduled for an oral argument at this  
12 time.

13 CHAIRPERSON SLASH: Okay. Thank you.  
14 And can we confirm that all parties are  
15 present?

16 MR. GIKAS: Rick Gikas, counsel for  
17 Respondents, is present.

18 CHAIRPERSON SLASH: Thank you.

19 MR. HEALY: Mike Healy, counsel for  
20 Complainant, is present.

21 CHAIRPERSON SLASH: Thank you. And  
22 at this time, I understand we have two things  
23 that we need to -- two matters that we need to

1 handle first, and the first one is the request to  
2 submit additional evidence, and so, in order to  
3 do that, I would like to offer five minutes from  
4 the Complainant to share a little bit more about  
5 why you think that should be, you should have  
6 that into evidence, and then we'll allow for  
7 about three minutes in rebuttal.

8 MR. HEALY: Thank you, Your Honor.  
9 This is Mike Healy for the Complainant.

10 I submitted the motion to submit  
11 additional evidence, and in support of that, I  
12 cited 910 IAC 1-11-2, which states that at any  
13 time after a hearing's closed but prior to final  
14 determination, the Commission may, on its own  
15 motion or on the motion of any party, reopen  
16 proceedings to receive further evidence for  
17 argument.

18 In this matter, the affidavit and the  
19 exhibit are relevant and material. It was stated  
20 by the Administrative Law Judge that Williams  
21 could have but chose not to seek permission from  
22 Respondent to perform work on the premises,  
23 relying on exhibits saying that Complainant was

1 not authorized to do any work or buy supplies  
2 unless she received permission.

3 Ms. Williams has done a diligent -- due  
4 diligence search of her records and has  
5 determined that there is a document which states,  
6 without the correct -- without the caveat that  
7 she will not get paid, period, and I think that  
8 it's important to state that holistically that --  
9 there are a number of condo statements which  
10 state that Linda Williams is not authorized to do  
11 any work around the condo and will not get paid  
12 unless she receives permission.

13 That is significant because the statement  
14 singles Linda Williams out alone. It doesn't say  
15 that this applies to anyone else, and there is  
16 documentary evidence that other people have done  
17 work, have re -- done it with or without  
18 permission, and they have been compensated for  
19 that. Particularly, Mia Fluharty, who lived  
20 there, has received compensation for work that  
21 she performed.

22 But these condo statements as a whole  
23 clearly single out Linda Williams. It is very

1 unlikely that Linda Williams would have received  
2 permission, and I'm not certain at all that she  
3 could have or it would have been fruitful for her  
4 to ask permission, because there had already by  
5 this time been a good number of lawsuits going  
6 back and forth between the parties, a great deal  
7 of animosity and anger, and Ms. Williams did not  
8 believe that she was going to be given,  
9 regardless, any authorization to do work around  
10 the condo, with or without permission, but I  
11 think that this document is more explicit here.

12 MR. GIKAS: May I respond to that?

13 (No response.)

14 MR. GIKAS: Hello?

15 CHAIRPERSON SLASH: Oh, I'm sorry; I  
16 was on mute. Yes, please.

17 MR. GIKAS: Oh, okay.

18 We objected to that additional exhibit on  
19 a number of grounds, probably the most important  
20 of which is it's undated, it's partial, and in  
21 fact, the context of the document itself suggests  
22 that it may well have predated the 2009 ICRC  
23 filing that's the whole issue in this case. And

1 Mike called me earlier this week and informed me  
2 that in fact this document does predate the 2009  
3 ICRC filing.

4 And in fact, that further supports our  
5 position that there was no change in behavior on  
6 the part of the Lazos as a result of  
7 Ms. Williams' 2009 ICRC claim. Quite the  
8 contrary. These -- many of her allegations  
9 disincluded were pre-existing that and were part  
10 of that, and were decided adversely to her, and  
11 she's now trying to resurrect them in some  
12 fashion as a retaliation claim.

13 This document does not state anything more  
14 than what is already in the record. It begins,  
15 the fragment that we have, that the -- any work  
16 must be approved by the president and treasurer,  
17 and then it goes on to say what's being denied,  
18 so it really doesn't add anything.

19 This document has been in Ms. Williams'  
20 possession since the beginning of this case, yet  
21 never produced until after a decision has been  
22 made, so it's not duly discovered evidence.  
23 There's no reason for it to have not been offered

1 prior to this point. It's cumulative. It  
2 basically does not fit any of the bases for  
3 allowing a post-trial exhibit to be admitted.

4 And the key fact here is it represents  
5 conditions that existed prior to the original  
6 2009 ICRC complaint, and therefore cannot  
7 possibly be evidence of retaliation on the  
8 Respondent's part, so it should be stricken and  
9 should not be allowed.

10 Thank you, Your Honor.

11 CHAIRPERSON SLASH: Thank you.

12 At this time, I'll hear a motion from  
13 Commissioners on the question of allowing  
14 additional evidence to be admitted. Is there a  
15 motion from any of the Commissioners?

16 COMM. RAMOS: Madam Chair, this is  
17 Comm. Ramos. I would like a -- if it pleases the  
18 Chair, to have a further response from Mr. --  
19 from the Complainant's attorney in contrary to  
20 that. I mean counsel brings up a good question:  
21 Why wasn't this provided previously? And I would  
22 like to have that addressed.

23 MR. HEALY: Yes.

1                   CHAIRPERSON SLASH: Thank you.

2                   MR. HEALY: Thank you.

3                   The -- there were literally thousands of  
4 pages of documents produced in discovery that  
5 went back and forth. We -- as a result, we  
6 provided hundreds of pages of documents as  
7 exhibits. This was on both sides. This was one  
8 of the documents that did not get into evidence.

9                   I don't want to cast aspersions or blame  
10 here as to why it didn't go in, but I will say  
11 that Mrs. Williams did make a diligent search for  
12 this, and she did testify at the hearing that she  
13 was told clearly that she could not perform any  
14 work, according to the transcript. And she  
15 men -- she references one of the condo statements  
16 that say that.

17                   Granted, there are many condo statements  
18 that are there, and some of them say, "unless you  
19 receive permission." She was referring to one  
20 that was significantly in 2008, because that one,  
21 the one that's under consideration now, was  
22 specifically stating, "shall not perform work,  
23 period." Later ones say, "can't perform unless

1 you receive permission."

2 Well, to Mrs. Williams, it means the same  
3 thing. She knew she was not going to receive  
4 permission. She was not on speaking terms with  
5 anyone. But she believes sincerely, then and at  
6 the hearing, that she was informed that she could  
7 not perform any work.

8 CHAIRPERSON SLASH: Thank you.

9 Mr. Ramos, does that answer your question?

10 COMM. RAMOS: Again, if it pleases  
11 the Chair, I'd like to listen to Respondent's  
12 attorney's final comments.

13 CHAIRPERSON SLASH: Sure.

14 MR. GIKAS: Thank you.

15 The fact that there were thousands of  
16 pages of documents is true for both sides, and  
17 both sides had the same obligation to produce at  
18 trial what they believed was relevant. We had  
19 the same opportunity. It would be wrong for me  
20 to be producing evidence post-trial, just as it's  
21 wrong for them, when it was in my possession the  
22 entire time.

23 There is simply no -- no reasonable basis

1 for this to have been kept out or omitted or  
2 ignored for all of this time. This case has been  
3 going for seven years now, and for suddenly after  
4 trial to be produced. It adds nothing, as I  
5 said. In fact, if it does anything, it probably  
6 furthers our position that there was no change.

7 But it is -- there is simply no valid  
8 basis for allowing this in at this point, and  
9 there's been no showing of due diligence on  
10 the -- on the Complainant's part in producing it  
11 or in bringing it to the Court's attention until  
12 after trial.

13 Thank you.

14 CHAIRPERSON SLASH: Thank you.

15 COMM. RAMOS: Thank you.

16 CHAIRPERSON SLASH: Comm. Ramos, do  
17 you or any of the other Commissioners have any  
18 questions or is anyone interested in offering a  
19 motion at this time?

20 COMM. BLACKBURN: I move that the new  
21 information not be allowed --

22 CHAIRPERSON SLASH: Is there a  
23 second?

1                   COMM. BLACKBURN:  -- into the record.

2                   COMM. HARRINGTON:  Comm. Harrington,  
3 second.

4                   CHAIRPERSON SLASH:  Okay.  We'll call  
5 roll.  All in favor, starting with  
6 Comm. Blackburn?

7                   COMM. BLACKBURN:  Aye.

8                   CHAIRPERSON SLASH:  Comm. Harrington?

9                   COMM. HARRINGTON:  Aye.

10                  CHAIRPERSON SLASH:  Comm. Jackson?

11                  COMM. JACKSON:  Aye.

12                  CHAIRPERSON SLASH:  Comm. Ramos?

13                  COMM. RAMOS:  Aye.

14                  CHAIRPERSON SLASH:  Comm. Slash, aye.

15 Thank you.

16                  Now to the second matter, we'd like to  
17 have further conversation on the objections, so  
18 we will allow at this time ten minutes for the  
19 Complainant first, and then -- we will do ten  
20 minutes for both sides, and then we will have the  
21 opportunity to hear more after that.  We'll begin  
22 with the Complainant.

23                  MR. HEALY:  Thank you, ladies and

1 gentlemen, for this opportunity.

2 I want to say first on behalf of the  
3 Complainant that you cannot begin to understand a  
4 story by starting at the middle of the book. You  
5 have to start at the very beginning of the book.  
6 Here, there was in fact plenty of retaliatory  
7 motive by Respondent by the time the  
8 Complainant's second complaint was filed in 2013  
9 alleging retaliatory conduct for having filed a  
10 previous complaint. There was even de facto  
11 retaliation committed at the time of the first  
12 complaint, if not de jure.

13 In looking at the chronology, we say that  
14 there was much retaliation going on, and  
15 throughout the initial decision, the  
16 Administrative Law Judge viewed these events  
17 through a very narrow lens in making her findings  
18 and conclusions, instead of looking through a  
19 broad prism, which was the attitude she should  
20 have taken. Remember, Indiana Code Section  
21 22-9-1-2, says that the purpose in public policy  
22 is that the chapter shall be construed --  
23 construed broadly in order to effectuate its

1 purpose, broadly, not narrowly.

2 What we have is a situation where Linda  
3 Williams has been alleging that she has had  
4 verbal requests and advice ignored and denied by  
5 the Respondent. Her right to vote in respect to  
6 many -- most personal financial investments was  
7 prohibited by Linda Williams having no vote. Her  
8 liabilities and debts are not -- were not owed by  
9 her.

10 She had the right to perform work duties  
11 and re -- seek compensation by Respondent, saying  
12 Linda Williams is not allowed to perform any  
13 work. There were rules, edicts and procedures  
14 created to measures that weren't the  
15 Complainant's general use of the environment.

16 Case in point, in 2010, after the first  
17 complaint was filed, lawsuit filed by Golf View  
18 against Linda Williams for theft and conversion  
19 of the principal sum of \$2910. That was  
20 dismissed with prejudice. Another lawsuit was  
21 filed November of 2010 against Complainant, \$2658  
22 for filing frivolous and malicious actions  
23 against Respondent. That was in favor of

1 Complainant. And Shelley Bradford, who also  
2 had -- was a co-owner of another apartment at  
3 that time.

4 But there's been more actions sin -- more  
5 legal actions since then. In 2015, the  
6 Respondent filed a claim of lien on Unit 2 of  
7 Golf View Apartments against the Complainant for  
8 \$8,978 for unpaid monthly condo fees, unpaid  
9 special assessments and attorneys fees, making it  
10 impossible for the Complainant to sell her  
11 apartment.

12 The Complainant has actually, since the  
13 time she purchased her unit, has paid all full  
14 condo fees until July of 2011. That's over 15  
15 years of paying full condo fees. At no time did  
16 the Respondent prorate the Complainant's condo  
17 fees, knowing that fees were deposited in the  
18 bank account and used to cover the Respondent's  
19 private property costs.

20 It's the Respondent that owes Complainant  
21 for years of fees that were misappropriated. The  
22 condo fees were paid in less of the monthly fund  
23 paid by Complainant, mainly for laundry services.

1 You see the exhibit that include the guest  
2 checks. Complainant at no time refused to pay  
3 the monthly condo fee, and in fact, she was  
4 paying the bank payments on time, but Respondent  
5 refused to accept a prorated amount.

6 Historically, the amount that monthly  
7 condo fee maintained was too low to cover  
8 existing bills, and thereby inadequately  
9 practice -- practicing adherence to accounting  
10 guidelines. There are contained in the  
11 declaration of condo and the bylaws governance  
12 requiring practice of designated accounting  
13 procedures, which include the annual budget and  
14 reserve accounts. The implement of these  
15 accounts would aid the financial health and  
16 success of the association. But there not  
17 adherence to the governing documents.

18 Complainant had no say and no vote, which  
19 in itself is in violation of a Golf View bylaw.  
20 Amendment (c), "No amendment shall discriminate  
21 against any apartment owner or against any  
22 apartment or class...of apartment unless the  
23 apartment owners so affected shall consent. No

1 amendment shall change any part nor [that] share  
2 in the common elements appurtenant to it, nor  
3 increase the owner's share of [a] common  
4 expense...nor change the voting rights of  
5 members, unless the owner of the apartment and  
6 all...owners...shall join in the execution of the  
7 amendment."

8           This was used to strip Mrs. Williams of  
9 her voting rights. She was prohibited from  
10 performing work, and she was charged liabilities  
11 for which she had no say. Some of the condo  
12 statements show that this was going on before the  
13 Lazos obtained their 75-percent share, they were  
14 making special assessments to the -- to both  
15 Linda Williams and Shelley Bradford when they had  
16 no legal authority to do so. They only had 50  
17 percent share. When they had 75 percent share,  
18 that's when they were committing more serious  
19 actions against Linda by not allowing her to do  
20 things that she had every right to do.

21           The Administrative Law Judge has taken, as  
22 I said before, a very narrow reading of the  
23 statute. We say that Respondent's use of

1 economic retaliation was subtle as opposed to  
2 direct. Williams -- excuse me. Various cases  
3 hold that an employee's decision to report  
4 discriminatory behavior can't immunize the  
5 employee from petty slights or minor annoyances.  
6 That was cited by the Administrative Law Judge,  
7 and that, frankly, ridiculed the Complainant.  
8 Williams -- Williams did not experience petty  
9 slight. She in fact alleged a large panoply of  
10 events and issues unfavorable to her.

11           Regarding prohibition on work, the  
12 findings state that both Ms. Fluharty and Lazo  
13 performed work after Complainant filed her  
14 complaint, and they were subject to preapproval.  
15 However, Fluharty was given permission to work,  
16 and Lazo owned between 50 and 75 percent of the  
17 shares. Thus, Williams, a minority shareholder  
18 and previously told she couldn't perform work,  
19 was not similarly situated. She was treated  
20 differently. She could not only -- not only  
21 could Fluharty work, but she was paid to do so.

22           Now, in addition to this, the  
23 Administrative Law Judge suggested that the

1 Complainant should have filed separate complaints  
2 of discrimination or retaliation after each  
3 individual instance. We think that's absurd,  
4 because it violates judicial economy, and it  
5 impacted the court -- the court system costs  
6 money, and such is paid for with tax dollars.

7           There's, in addition to that, allegations  
8 made that Linda should not have been upset about  
9 rocks in the driveway while parking. Well, with  
10 regard to the parking situation, Mr. Lazo could  
11 have parked, as the photographs show,  
12 perpendicular in order to pull his weeds. No, he  
13 did not do that. He parked so close to the  
14 Complainant's property that she could not get out  
15 of that area, and Ms. Williams was not in a  
16 position -- of a mind to contact the Respondent  
17 at this time, because several lawsuits had been  
18 filed.

19           With respect to the other minor annoyance,  
20 the rocks in the driveway, and the Judge saying  
21 that, "Well, this affected other tenants as  
22 well," the only other tenant that we know of was  
23 Mia Fluharty, who did not drive a car. Linda

1 Williams had no idea why there was rocks there,  
2 or for how long. She was the only one adversely  
3 affected by this, and as a result, she didn't  
4 know that this was only a temporary situation.  
5 It could have been there for a much longer period  
6 of time, but it should not be dismissed simply  
7 because it was there for a couple of days.

8           There are a large number of statements  
9 that have been put into the record regarding what  
10 Linda Williams had to go through as a minority  
11 shareholder. She did not have very many problems  
12 with the Lazos during the first decade that she  
13 lived in her unit, but things got worse, when  
14 in -- at least as far back as 2007, she had to  
15 call Adult Protective Services when she became  
16 convinced that Lazo's mother was being neglected.

17           There were other instances that just  
18 simply got out of control, but the fact of the  
19 matter is there were more and more disputes, and  
20 with more power -- hello?

21           CHAIRPERSON SLASH: That's just your  
22 timer. You've got 30 seconds.

23           MR. HEALY: With more power, they --

1 they just became more belligerent. Now, Linda  
2 was not suggesting that putting a coin-operated  
3 washer and dryer was in any way retaliatory. It  
4 was not. It was something that she wanted in  
5 there because she needed to clean this. But she  
6 did not -- she was not being allowed to clean her  
7 own area, and the place was getting pretty dirty.

8           There should have been a reserve account,  
9 which the -- which a -- is included in the  
10 bylaws, and there should be -- should have been  
11 an independent audit of the accounts of the  
12 association made annually by an independent CPA,  
13 and a copy of the report should be submitted.  
14 That was not adhered to.

15           And I will do more regarding rebuttal.

16           Thank you.

17           MR. GIKAS: May I respond?

18                           (No response.)

19           MR. GIKAS: May I respond?

20           CHAIRPERSON SLASH: Yes, you may.

21           You have ten minutes.

22           MR. GIKAS: All right. Thank you.

23           There's been a number of allegations just

1 made that have never been in this case before:  
2 The need for a reserve account, for instance,  
3 setting aside money. It's interesting that that  
4 should be suggested by Ms. Williams, given the  
5 fact that she wasn't paying her condominium fees,  
6 and hasn't paid them for the last seven years.  
7 The -- one has to wonder where this money that's  
8 supposed to have been set aside was going to come  
9 from.

10 But be that as it may, let's return to  
11 what this case is all about. This is a  
12 retaliation claim, and part of the burden of  
13 proof that is on the Complainant, and has been on  
14 her from the beginning, is to show that but for  
15 her filing of her ICRC complaint in 2009, the  
16 Lazos would have treated her differently.

17 And there's been a lot of allegations in  
18 this case, but absolutely no evidence to suggest  
19 that the Lazos would have acted any differently  
20 towards Ms. Williams whether or not she had filed  
21 that 2009 ICRC complaint. Quite the contrary.  
22 We submitted significant evidence, which the ALJ  
23 very carefully analyzed, on the financial

1 condition of this -- this very small, four-unit  
2 condominium, showing that the financial condition  
3 was always tenuous.

4 It began, that tenuous condition began,  
5 back in 2010, I believe, when Ms. Bradford, who's  
6 been mentioned, one of the four tenants, stopped  
7 paying her -- her dues, and ultimately lost her  
8 unit, which the Lazos acquired.

9 It was exacerbated then in 2012 when  
10 Ms. Williams stopped paying her dues. She began  
11 reducing them unilaterally by claiming that the  
12 condo association owed her for her laundry work.  
13 There's no basis in the condominium law -- bylaws  
14 or governing documents to allow such thing. No  
15 owner had ever reduced or deducted money from  
16 their dues in the past. This was simply done by  
17 Ms. Williams on her own, with no authority.

18 The condo association then stopped  
19 accepting those reduced payments, because to  
20 continue to accept those reduced payments is to  
21 acknowledge their validity, and that is a danger  
22 that any creditor faces if they accept less than  
23 what is required. A person's mortgage company

1 will not accept less simply because the person  
2 thinks they've got a right to offset. It simply  
3 isn't done. And Ms. Williams never explained any  
4 valid -- any valid basis for her reduced fees,  
5 and certainly no basis for her refusal since 2012  
6 to pay a penny towards this condominium  
7 association.

8           The activities that are mentioned,  
9 basically the -- Ms. Williams' evidence falls  
10 into three categories: Things that were  
11 happening before her 2009 complaint, which, just  
12 like that piece of evidence that's just been  
13 admitted, show that there's -- whatever was going  
14 on before 2009 was going on exactly the same  
15 after 2009, no greater, no less, no different.  
16 That's -- therefore, no retaliation.

17           Then there's this massive amount of  
18 complaints between 2009 and June of 2012, which  
19 is the cutoff date for the statute of limitations  
20 under Indiana law. That -- those activities,  
21 which keep getting drugged out, the things going  
22 on in 2010, they're all barred by the ICRC  
23 statute of limitations.

1           Ms. Williams has tried to bring those  
2 issues into this case under this idea of a  
3 continuing act or continuing discrimination, but  
4 the evidence doesn't meet any of the legal  
5 standards for continuing acts. Those are all  
6 discrete acts of discrimination, things that  
7 would have triggered any reasonable person, if  
8 they had a complaint, to bring that complaint.  
9 And she was complaining all along, so she wasn't  
10 in the dark about what was going on.

11           But she didn't bring any of it before any  
12 body that had any authority to do anything until  
13 she finally files a retaliation claim in January  
14 of 2013, so all of that material is kind of  
15 barred. Judge Ryker did a very detailed job of  
16 going through all of the evidence and sorting out  
17 which claims were pertinent and accessible under  
18 the law and which claims were simply out.

19           And what was left, what is remarkable is  
20 the absolute absence of anything, any evidence,  
21 that would suggest that but for the filing of a  
22 2009 ICRC charge, these events happening in 2012,  
23 2013, '14, '15 would have -- would have happened

1 differently.

2           It's absurd, as a matter of fact, to think  
3 that when the Lazos approved the special  
4 assessments that have been mentioned, that in  
5 order to extract one dollar from Ms. Williams,  
6 they would have to extract three dollars from  
7 themselves, which in fact they ended up having to  
8 pay, because this place was falling into dis --  
9 into ruin.

10           The maintenance wasn't being done, nothing  
11 could be done, because there was this complete  
12 absence of any control during the period before  
13 the Lazos acquired their 75 percent interest,  
14 because there was no quorum, therefore no  
15 authority for anybody to act, and the place was  
16 falling into decay.

17           The Lazos then raised the money to make  
18 the repairs, and they are the only ones that paid  
19 that money. They used that money to make the  
20 repairs. Every cent that came in and went out is  
21 documented in the Respondent's Exhibits A and B,  
22 which Judge Ryker went through in detail. They  
23 show exactly what the financial condition of the

1 operation was, and that the financial condition,  
2 not to the filing of a 2009 ICRC claim, is what  
3 motivated the Lazos' actions here.

4           It's very true these people have bad blood  
5 between them. There's no question about that,  
6 starting with phony allegations going back  
7 to 2007, all of which were decided against  
8 Mrs. Williams. In fact, every time these people  
9 went after each other, the person bringing the  
10 claim lost. But that's -- that simply shows the  
11 bad blood. It does not establish a retaliation  
12 claim.

13           So, all of this -- these things that are  
14 brought up about these prior acts, they don't --  
15 they don't amount to any actual evidence of  
16 retaliation under the civil rights laws, and  
17 that's what's lacking in this case, proof of  
18 causation. It's just not there.

19           They might ask: What would have happened  
20 if the Lazos had done nothing after 2009, if they  
21 had done exactly what Ms. Williams did, take no  
22 action and stop paying their dues in 2012  
23 altogether? Would that have been retaliation?

1 I'm sure they would have been accused of it. But  
2 there -- nothing would have happened with this  
3 building. It would have fallen into disrepair.  
4 It would have fallen apart.

5 And the only thing that's kept it going is  
6 the Lazos doing -- doing everything from picking  
7 weeds to doing landscaping to taking care of the  
8 common areas, to paying all of that themselves,  
9 with not one cent coming from Ms. Williams. And  
10 yet the Lazos are the ones that are being accused  
11 of retaliating, and in the absence, the complete  
12 absence, of any information to that.

13 So, there is simply no basis, and never  
14 has been any basis, for a retaliation claim here.  
15 There's plenty of bad blood, but that is not the  
16 same as retaliation. Ms. Williams was invited to  
17 every meeting after 2012. She was given notice  
18 of those meetings. She never showed up to a  
19 single meeting her entire time at Golf View.  
20 Before 2009, after 2009, never once did she ever  
21 show up for a meeting.

22 She never exercised her right to vote, and  
23 she was not denied the right to vote. She was

1 given notice. She was given opportunity. She  
2 just didn't come, and that was her choice, not  
3 the Lazos'. The evidence of all of that is in  
4 the record, the Certified Mails, which she often  
5 refused to accept, to the point that they were  
6 being posted on her door to give her notice of  
7 these meetings.

8           The Lazos did everything they could do to  
9 try to keep this place from falling into  
10 disrepair, and all they got in return was  
11 allegation after allegation of "Oh, you're  
12 retaliating." If they picked weeds, it was  
13 retaliation. If they didn't pick weeds, it was  
14 retaliation. If -- whatever they did, it was  
15 retaliation, and ultimately, there's no evidence  
16 of retaliation.

17           All of these -- all of these actions  
18 amount to nothing, and the -- Judge Ryker  
19 carefully examined all of that, put a detailed  
20 description of all of the evidence and the  
21 relevant law into her decision, and I believe  
22 that decision should be upheld in all respects.

23           Thank you.

1                   CHAIRPERSON SLASH: Thank you.

2                   At this time, Mr. Healy, we invite you to  
3 deliver rebuttal to the Complainant. You have  
4 five minutes.

5                   MR. HEALY: Thank you.

6                   Yeah, Your Honor, none of these events,  
7 these unfortunate events, we think would have  
8 happened had the Lazos not abused their position,  
9 had they done what they were required to do under  
10 the bylaws, instead of exercising authority in a  
11 very austere and very arbitrary manner.

12                  The bylaws specifically say, "No amendment  
13 shall discriminate against any apartment owner or  
14 against any apartment or class or group of  
15 apartments unless the apartment owners so  
16 affected shall consent. No amendment shall  
17 change any [port] -- part nor share in the common  
18 elements...nor increase the owner's share of the  
19 common expenses, nor change the votes rights of  
20 members, unless the record owner of the apartment  
21 concerned and all [of the] record owners...shall  
22 join in the execution of the amendment."

23                  This was not done. In fact, Mrs. Williams

1 testified that she was literally kicked out of a  
2 meeting when Angela Lazo slammed the door on her,  
3 and she couldn't attend that meeting in her  
4 apartment.

5 He's saying -- Mr. Gikas is saying that  
6 she wasn't paying her fees. Well, that is the  
7 point. Linda Williams did not stop paying fees.  
8 Lazo refused to consider the possibility that  
9 maybe he or his wife were wrong in failing to  
10 deduct the money that Linda Williams had to pay  
11 for things that she had to do.

12 She was told flat-out that she could not  
13 perform any work, according to this, some say  
14 without permission, some way with or without  
15 permission, but they would not meet her halfway.  
16 She was told that she had no particular rights,  
17 and much of these happened after the 2009  
18 complaint was filed.

19 I've already recited some of the facts  
20 that took place after that time, including the  
21 lawsuit that they filed against her. They were  
22 also -- she was also denied usage of the laundry  
23 room, because the Respondent prohibited

1 Complainant from cleaning the common areas,  
2 having to travel to the local laundromat. We  
3 know that that was paid -- it was a coin-operated  
4 laundry to be eventually put in, but that was not  
5 in and of itself retaliation.

6 The Complainant was denied lights in the  
7 carport by Respondent installing metal plates.  
8 The Respondents denied Complainant snow removal,  
9 tools and salt, because they -- Respondent  
10 provided these to Respondent tenants only. They  
11 denied her participation in electing a new  
12 president.

13 But Respondent Lazo was registered and  
14 elected without 75 percent of the vote. She was  
15 denied annual meetings and attendance, and  
16 special assessments were issued by Respondent  
17 without adherence to procedures in the  
18 declaration and the bylaws.

19 CHAIRPERSON SLASH: Mr. Healy, is  
20 that the end of your rebuttal?

21 MR. HEALY: Hello?

22 CHAIRPERSON SLASH: Hello?

23 MR. HEALY: Did I lose --

1                   CHAIRPERSON SLASH: Okay. Wait a  
2 second. We're here, but we've got an echo.

3                   MR. HEALY: Yes. I had one other  
4 sentence to make, and that was that much of what  
5 took place here took place after the 2009  
6 complaint was filed, and things just got worse  
7 after that. But looking at this holistically,  
8 that was retaliation de facto going back a great  
9 many years, especially after 2009, and the  
10 Administrative Law Judge failed to consider  
11 these.

12                   Thank you.

13                   CHAIRPERSON SLASH: Thank you. Thank  
14 you.

15                   We will hear from the Respondent's  
16 attorney, and you have five minutes surrebuttal.

17                   MR. GIKAS: Thank you, Your Honor.

18                   A lot of what Mike is alleging here, the  
19 failure to follow the bylaws, if that were true,  
20 there is a separate action for a company's  
21 failure to follow its organizational documents.  
22 It has nothing to do with civil rights laws,  
23 everything to do with a stockholder derivative

1 suit. But this is not a stockholder derivative  
2 suit. This is a retaliation claim, and there  
3 is --

4 CHAIRPERSON SLASH: Please hold on  
5 for just a moment.

6 MR. GIKAS: Certainly.

7 CHAIRPERSON SLASH: Can I ask that  
8 anyone who is not currently speaking please put  
9 their phone on mute, out of respect of the  
10 attorney presenting at this time? Thank you.

11 You may proceed.

12 MR. GIKAS: Uh-huh.

13 The problems here that are being raised  
14 have nothing to do with retaliation, no -- no  
15 indication that what is going on was but for the  
16 filing of the 2009 ICRC charge. They're just  
17 throwing everything against the wall and hoping  
18 something will stick. And most of what they're  
19 throwing against the wall is not bad actions,  
20 it's things that the Lazos were doing to try to  
21 improve this place. But Ms. Williams objected  
22 for some reason or another, and that is simply  
23 not retaliation.

1           They claim that she didn't get to do work  
2 that she wanted to do, but yet there was not one  
3 piece of evidence entered that she offered to do  
4 any work, that she had asked to do any work. And  
5 now she wants to rely on, "Well, I couldn't, so  
6 that's why I didn't put in any evidence."

7           Well, the Lazos were doing a great deal of  
8 work, and yet they weren't getting paid for their  
9 work. The financial records show that Mike Lazo  
10 didn't get paid a dime for his time, and he got  
11 reimbursed for some of their out-of-pocket  
12 expenses, and that's a matter of a couple hundred  
13 dollars over several years.

14           But they got paid for none of their labor,  
15 and yet they were doing it. They were out there  
16 doing the painting and the landscaping and all of  
17 the other -- picking weeds when the man was  
18 already sick. They were doing it, but they  
19 weren't getting paid, and yet somehow it's  
20 retaliation that she, Ms. Williams, who didn't  
21 even offer to do any of this work, wasn't going  
22 to get paid.

23           There's -- again, there's no connection of

1 any of this to but for the filing of the 2009  
2 action. This all comes back to: Was there money  
3 in the account? No. Why wasn't there money in  
4 the account? Because Ms. Williams wasn't paying.

5 She was the one that brought on most of  
6 these actions, but she takes no responsibility  
7 for her own actions. She wants someone to say  
8 that it's all because of these people being bad  
9 to her, and yet that simply is not a retaliation  
10 claim. The law of retaliation is very specific  
11 and requires a linkage, a causal effect, between  
12 the filing -- the doing of a protected activity  
13 and the adverse action, and there's no such  
14 causal effect here.

15 No evidence whatsoever has been produced,  
16 just a lot of bald accusations of saying, "You've  
17 been bad to me. I don't know why. You just have  
18 been, and you should now be found liable for  
19 retaliation." That isn't evidence, it isn't  
20 substantive, it isn't legal, and Judge Ryker's  
21 analysis of that evidence in its entirety was  
22 quite valid and quite thorough, and we think she  
23 should be affirmed in all respects.

1 Thank you.

2 CHAIRPERSON SLASH: Thank you.

3 So, at this time, I'd like to -- I think  
4 this is what I can do. According to the original  
5 ALJ -- the original ALJ's order, the conclusion  
6 states that the Complainant was asked to meet a  
7 burden of proof or establish that the Respondent  
8 retaliated against her filing for her 2009 ICRC  
9 complaint.

10 At this time, the Commission has in front  
11 of them, after hearing oral arguments, we have  
12 the -- the actions that are requested of us are  
13 that we can -- let me make sure I have all of  
14 these things correct -- we have to affirm the  
15 ALJ's decision; we could also remand it and send  
16 it back and ask for certain clarity; or we can --  
17 and we can also withhold and make a decision at  
18 next month's meeting.

19 Is there a motion on behalf of the  
20 Commission from any of the Commissioners?

21 COMM. BLACKBURN: I move --

22 Comm. Blackburn, I move that we affirm the order.

23 CHAIRPERSON SLASH: Thank you.

1           Is there a second?

2           COMM. HARRINGTON: This is  
3 Comm. Harrington. I move -- or I'm sorry. I  
4 second.

5           CHAIRPERSON SLASH: Thank you.

6           At this time, I'd like to call the vote,  
7 and I'll begin with Comm. Blackburn.

8           COMM. BLACKBURN: Aye.

9           CHAIRPERSON SLASH: Comm. Harrington?

10          COMM. HARRINGTON: Aye.

11          CHAIRPERSON SLASH: Comm. Jackson?

12          COMM. JACKSON: Aye.

13          CHAIRPERSON SLASH: Comm. Ramos?

14                           (No response.)

15          CHAIRPERSON SLASH: Calling the vote  
16 of Comm. Ramos.

17          COMM. RAMOS: I'm sorry; I was on  
18 mute. Aye.

19          CHAIRPERSON SLASH: Thank you. And  
20 Comm. Slash, aye. So, the ayes have it, and we  
21 will -- and so, the motion is to affirm the ALJ's  
22 order. Thank you.

23                   And at this time, we have quite a few more

1 ALJ decisions that we are to go through. Is ALJ  
2 Ryker back with us?

3 JUDGE STEPHENS RYKER: Yes, I am on  
4 the line. Would you like me to move on to the  
5 next issue on the agenda?

6 CHAIRPERSON SLASH: Yes, but at this  
7 time, first I'd like to thank both parties for  
8 coming to be with us today and presenting their  
9 oral arguments. Thank you.

10 MR. GIKAS: Thank you, Your Honor.

11 MR. HEALY: Thank you.

12 CHAIRPERSON SLASH: You may proceed,  
13 Ms. Ryker.

14 And anyone who is not speaking, please  
15 place your phone on mute.

16 JUDGE STEPHENS RYKER: So, the next  
17 agenda item is Freeman versus Kilroy's Bar 'N  
18 Grill PAr1801 --

19 COMM. JACKSON: I'm on mute.

20 JUDGE STEPHENS RYKER: -- 0013, and  
21 this is the initial decision date of April 23rd,  
22 2020. As the agenda states, there was a motion  
23 to enforce that the ALJ granted, and although the

1 agenda states there are no objections that have  
2 been filed, I do want to bring to the  
3 Commission's attention that on May 7th of 2020,  
4 the Complainant, proceeding pro se, did send an  
5 e-mail to the Docket Clerk that purported to be  
6 an objection.

7 It was not served on any of the parties.  
8 The Docket Clerk did advise him that in order to  
9 object, the e-mail's contents did need to be  
10 served on all parties, but no reply was  
11 submitted, and there's nothing in the record that  
12 suggests that did happen.

13 CHAIRPERSON SLASH: Okay. And so, at  
14 this time, we need to affirm your finding, or  
15 we -- can you clarify what we -- what decision  
16 needs to be made on this one?

17 JUDGE STEPHENS RYKER: So, there are  
18 the same options as was previously available.  
19 The Commission can affirm --

20 CHAIRPERSON SLASH: Thank you.

21 JUDGE STEPHENS RYKER: -- the  
22 Commission can modify, the Commission can remand,  
23 and the Commission can withhold the decision.



1 three we have are decisions to make on this. Can  
2 you bring us up to speed on the --

3 JUDGE STEPHENS RYKER: Yes. So, the  
4 next --

5 CHAIRPERSON SLASH: -- Gutknecht  
6 versus AES?

7 JUDGE STEPHENS RYKER: Yes, Gutknecht  
8 versus AES, ICRC No. 470-2018-03204. The date of  
9 the initial decision was April 23rd, 2020. This  
10 is a default order concerning with the  
11 Complainant's failure to respond to discovery.  
12 Again, no objections have been filed.

13 CHAIRPERSON SLASH: Okay. Thank you.  
14 Is there a motion on this one?

15 COMM. RAMOS: Comm. Ramos, I move to  
16 affirm the ALJ.

17 CHAIRPERSON SLASH: Thank you.  
18 Is there a second?

19 COMM. HARRINGTON: Comm. Harrington,  
20 second.

21 CHAIRPERSON SLASH: Thank you. Call  
22 a vote.

23 Comm. Blackburn?

1                   COMM. BLACKBURN: Aye.

2                   CHAIRPERSON SLASH: Thank you.

3                   Comm. Harrington?

4                   COMM. HARRINGTON: Aye.

5                   CHAIRPERSON SLASH: Comm. Jackson?

6                   COMM. JACKSON: Aye.

7                   CHAIRPERSON SLASH: Comm. Ramos?

8                   COMM. RAMOS: Aye.

9                   CHAIRPERSON SLASH: And Comm. Slash,  
10 aye. Thank you.

11                   And the next case, Kelley versus Lafayette  
12 Urban Ministry.

13                   JUDGE STEPHENS RYKER: The ICRC  
14 Number for this matter is HOha18040186. The date  
15 of the decision in this matter was April 17th,  
16 2020. This is a dismissal after a notice of --  
17 and there's a correction to the agenda I have to  
18 make there -- after a notice of election was  
19 executed by both parties, as opposed to a notice  
20 of finding. And again, no objections have been  
21 filed.

22                   CHAIRPERSON SLASH: Okay. And so,  
23 the correction to the agenda is do we insert "no

1 objections have been filed"?

2 JUDGE STEPHENS RYKER: The agenda  
3 reads that this matter was dismissed after a  
4 notice of finding was executed. It should read  
5 that after a notice of election was filed.

6 CHAIRPERSON SLASH: Okay. Thank you  
7 for the clarity. And on this one, we need to  
8 make the same decision; correct?

9 JUDGE STEPHENS RYKER: Correct.

10 COMM. HARRINGTON: This is  
11 Comm. Harrington. I vote -- I move that we  
12 affirm the ALG -- ALJ's decision as modified.

13 CHAIRPERSON SLASH: Okay. Thank you.  
14 Is there a second?

15 COMM. BLACKBURN: Blackburn, second.

16 CHAIRPERSON SLASH: Thank you. I'll  
17 call a vote.

18 Comm. Blackburn?

19 COMM. BLACKBURN: Aye.

20 CHAIRPERSON SLASH: Comm. Harrington?

21 COMM. HARRINGTON: Aye.

22 CHAIRPERSON SLASH: Comm. Jackson?

23 COMM. JACKSON: Aye.

1 CHAIRPERSON SLASH: Comm. Ramos?

2 COMM. RAMOS: Aye.

3 CHAIRPERSON SLASH: And Comm. Slash,  
4 aye. Thank you.

5 In the next case, which is Lester versus  
6 Pharmakon Long Term Care Pharmacy, Inc.

7 JUDGE STEPHENS RYKER: So, this is  
8 ICRC No. EMha16071334. The date of this decision  
9 was April 18, 2020, and I will note for the  
10 Commissioners that the period of objection has  
11 not yet closed, so the Commission cannot vote at  
12 this time.

13 CHAIRPERSON SLASH: Thank you for  
14 bringing that up. So, we cannot have a vote on  
15 that.

16 And we are getting an echo from someone,  
17 so if you're not speaking, please keep your phone  
18 on mute.

19 And the next one, ICRC & Banks versus  
20 Vicki New, Kirkpatrick Management Company,  
21 Incorporated, and Twin Creeks Homeowners  
22 Association.

23 JUDGE STEPHENS RYKER: Again, in this

1 decision, the ICRC No. HOra19050297, the  
2 Commission does not yet need to vote. There was  
3 some returned mail sent back to the office, and  
4 so, the period for objection has not yet closed.  
5 And that is same --

6 CHAIRPERSON SLASH: Thank you.

7 JUDGE STEPHENS RYKER: -- for the  
8 next agenda item as well, that has ICRC & FHCCI  
9 versus Kirkpatrick Management & Twin Creeks  
10 Homeowners Association & Vicki New,  
11 HOra190402432.

12 CHAIRPERSON SLASH: Thank you.

13 And that concludes this section of our  
14 meeting, so now we will move back to our meeting  
15 dates to clarify or to see if there are any --  
16 any need for us to revisit any of the dates as  
17 listed for the forthcoming meetings, so the June,  
18 July, August. Let's just look at the next three  
19 months. Does anyone have any conflicts or  
20 concerns?

21 (No response.)

22 CHAIRPERSON SLASH: Okay. And as  
23 that all of our calendars are up in the air at

1 the moment, so each month -- each month we'll  
2 just revisit them.

3 At this time, are there any announcements?

4 JUDGE STEPHENS RYKER: Comm. Slash, I  
5 did have one question. On looking at the  
6 calendar, we moved June to a Monday, or am I  
7 reading it wrong?

8 CHAIRPERSON SLASH: Yes, we had  
9 initially done that to get away from the  
10 conference. At this time, is there any  
11 discussion about moving it back to our regular  
12 day?

13 COMM. HARRINGTON: Is there an update  
14 on the conference, the parties? Are they doing  
15 anything virtual or --

16 CHAIRPERSON SLASH: Yes, if either  
17 the Deputy Director or the ALJ, could you bring  
18 us up to speed on that?

19 MR. SCHULTZ: This is Deputy Director  
20 Schultz. So, obviously, you know, we continue to  
21 evaluate our options in light of the current  
22 health crisis, and at this time, we have  
23 determined that trying to schedule the annual

1 conference on the original date in June is not  
2 practical, and we are looking to alternative  
3 dates for delivering that conference. No final  
4 decision's been made, but there would no longer  
5 be a conflict with the June 17th date between  
6 this meeting -- of this group and the Annual  
7 Conference of the Civil Rights Commission.

8           COMM. HARRINGTON: Okay. Is there  
9 the interest -- we still have the dates on our  
10 calendar for the 19th, but the schedule says  
11 the 15th, so I just wanted clarity, because what  
12 is on our calendar and what yours looks like  
13 doesn't match up. So, I want to know which one  
14 is accurate. Are we going to continue on the  
15 19th, or are we moving to the 15th?

16           CHAIRPERSON SLASH: I would like to  
17 push that we keep it on the 19th. Is there any  
18 support for it to be there or not to be there?

19           COMM. HARRINGTON: This is  
20 Comm. Harrington. As the time it's held, it  
21 works for me --

22           CHAIRPERSON SLASH: To have it --

23           COMM. HARRINGTON: -- the 19th.

1                   COMM. BLACKBURN: Sounds fine.

2                   CHAIRPERSON SLASH: Comm. Jackson and  
3 Comm. Ramos, does the 19th work for you?

4                   COMM. RAMOS: I'm fine with that.

5                   COMM. JACKSON: That's fine.

6                   CHAIRPERSON SLASH: Okay. So, if we  
7 could make that adjustment to our public  
8 schedule, that it goes back to June 19th.

9                   JUDGE STEPHENS RYKER: I will make  
10 sure that update is posted under the appropriate  
11 laws.

12                   CHAIRPERSON SLASH: Thank you.

13                   Are there any announcements?

14                   (No response.)

15                   CHAIRPERSON SLASH: Okay. Hearing  
16 none, is there anyone on for public comment at  
17 this time?

18                   (No response.)

19                   CHAIRPERSON SLASH: I'll call one  
20 more time. Is there anyone present for public  
21 comment at this time? I know we had quite a few  
22 people join us on the phone over the course of  
23 the call.

1 (No response.)

2 JUDGE STEPHENS RYKER: And if I can  
3 just add, Comm. Slash, anyone who has joined the  
4 call, if you could please stay on the line after  
5 the Commission meeting, the court reporter does  
6 need to take down the names of all in attendance.  
7 So, even if you're not here for public comment,  
8 we do need to make sure your name's on the  
9 record.

10 (No response.)

11 CHAIRPERSON SLASH: Thank you.

12 Okay. Without any further announcements  
13 or public comment, I'd like to thank everyone for  
14 their time, their full participation, and their  
15 patience with us today. As we were doing our  
16 oral arguments over the phone completely, I just  
17 thank you for your preparation and your full  
18 participation today. Thank you so much for that.

19 And I'd like to also thank our Commission  
20 staff for fully preparing us for today as well.  
21 No easy feat for us to go down this road  
22 together, but thank you. And with that, continue  
23 to stay safe, stay well, and we will see you all

1 next month.

2 This meeting is now adjourned at 2:18 p.m.

3 - - -

4 Thereupon, the proceedings of  
5 May 15, 2020 were concluded  
6 at 2:18 o'clock p.m.

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## 1 CERTIFICATE

2 I, Lindy L. Meyer, Jr., the undersigned  
3 Court Reporter and Notary Public residing in the  
4 City of Shelbyville, Shelby County, Indiana, do  
5 hereby certify that the foregoing is a true and  
6 correct transcript of the proceedings taken by me  
7 on Friday, May 15, 2020 in this matter and  
8 transcribed by me.

9  
10 \_\_\_\_\_  
11 Lindy L. Meyer, Jr.,  
12 Notary Public in and  
13 for the State of Indiana.

14  
15 My Commission expires August 26, 2024.

16 Commission No. NP0690003  
17  
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23

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