

1 BEFORE THE STATE OF INDIANA

2 CIVIL RIGHTS COMMISSION

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4
5 PUBLIC MEETING OF NOVEMBER 24, 2025

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9 PROCEEDINGS

10 in the above-captioned matter, before the Indiana
11 Civil Rights Commission, Adrienne L. Slash,
12 Chairperson, taken before me, Lindy L. Meyer,
13 Jr., a Notary Public in and for the State of
14 Indiana, County of Shelby, at the Indiana
15 Government Center North, 100 North Senate Avenue,
16 Room N300, Indianapolis, Indiana, on Monday,
17 November 24, 2025 at 1:03 o'clock p.m.

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1 APPEARANCES:

2 COMMISSION MEMBERS:

3 Adrienne L. Slash, Chairperson
4 Steven A. Ramos
5 Holli Harrington
6 James W. Jackson
7 Terry Tolliver
8 Sue Silberberg

9 INDIANA CIVIL RIGHTS COMMISSION
10 By J. Philip Clay, Executive Director
11 & Scott Kreider, Deputy Director
12 Indiana Government Center North
13 100 North Senate Avenue, Room N300
14 Indianapolis, Indiana 46204
15 On behalf of the Commission.

16 OTHER COMMISSION STAFF PRESENT:

17 Michael Lostutter
18 Lucy Travis
19 Brooklyn Marrs
20 James Hodges
21 Frederick Bremer

22 ALSO PRESENT:

23 Mary Ruz
Arturo Vargass
Erin Shaughnessy
Juan Rodriguez Rogers
Mary Rodriguez
Judith Gill
Ciara Chmielewski
Augustus Nwachukwu
Matt Brown
Peter T. Tschanz
Lori Gehlhausen

- - -

1 1:03 o'clock p.m.
November 24, 2025

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3 MR. LOSTUTTER: All right. Please be
4 advised no party will be allowed to speak
5 directly to the Commission during any Commission
6 meeting except during a previously scheduled oral
7 argument, or during our public comments time
8 directly before the end of the meeting.

9 Concerning appeals, the Commissioners will
10 make their initial determination based on the
11 complaint, the notice of finding, the appeal, and
12 final investigative report. You must not address
13 the Commission members except and unless you are
14 addressed directly by them.

15 If you have any questions about your case,
16 please wait to speak to the Docket Clerk until
17 after the Commission meeting ends. If you are
18 here to make remarks during the public comments
19 time, be aware that you will only be allowed two
20 minutes to speak.

21 Thank you.

22 CHAIRPERSON SLASH: All right. Thank
23 you.

1 It is 1:04 p.m. Good to be here today. I
2 call the meeting to order. All right.
3 Fantastic. I'm glad to have everybody here with
4 us today. We have our quorum in person, and we
5 have one Commissioner joining us on-line, so
6 we'll need roll-call votes today. And we'll go
7 ahead and begin with the announcement of the
8 agenda.

9 MR. LOSTUTTER: All righty. We will
10 have approval of previous meeting minutes; we
11 then will have the ICRC Director's Report, which
12 will also include an announcement; and we have
13 Old Business, five cases involving appeals of
14 notice of finding, three of which involve oral
15 argument; and we also have one new case to assign
16 to one of the lucky Commissioners there; and then
17 we have an oral argument concerning an ALJ
18 decision in one case, and then that's it. No
19 decisions automatically confirmed, and we can
20 discuss the meeting date for next month as well.

21 CHAIRPERSON SLASH: Okay. Thank you
22 so much.

23 Okay. Is there a motion for the approval

1 of last month's meeting minutes?

2 VICE-CHAIR RAMOS: So moved.

3 CHAIRPERSON SLASH: Is there a
4 second?

5 COMM. TOLLIVER: Second.

6 CHAIRPERSON SLASH: Okay.

7 MR. LOSTUTTER: All right. We will
8 call the Roll.

9 Comm. Silberberg?

10 COMM. SILBERBERG: Aye.

11 MR. LOSTUTTER: Comm. Jackson?

12 COMM. JACKSON: Aye.

13 MR. LOSTUTTER: Comm. Harrington?

14 COMM. HARRINGTON: Aye.

15 MR. LOSTUTTER: Comm. Tolliver?

16 COMM. TOLLIVER: Aye.

17 MR. LOSTUTTER: Vice-Chair Ramos?

18 VICE-CHAIR RAMOS: Aye.

19 MR. LOSTUTTER: Chair Slash?

20 CHAIRPERSON SLASH: Aye.

21 MR. LOSTUTTER: The ayes have it.

22 CHAIRPERSON SLASH: Thank you.

23 All right. We'll now have the ICRC

1 Director's Report.

2 MR. CLAY: Yeah. Wonderful. Thank
3 you all. Happy early Thanksgiving. I know most
4 of you were just able to participate in our
5 Commissionsgiving that we just had. Again,
6 always a pleasure to have you all here. The
7 staff was incredibly excited, and I hope you
8 could feel the energy and really the morale
9 improving throughout the Commission.

10 I want to take a moment and welcome and
11 introduce Scott Kreider, who will be serving as
12 our Deputy Director and General Counsel. I'll
13 give Scott a quick moment to introduce himself.

14 MR. KREIDER: Sure.

15 Well, first of all, thanks for having me.
16 I look forward to this role, working with the
17 Director, and I hopefully continue to improve
18 things as we move forward. I'm just coming over
19 from DWD as an ALJ, and I spent several years in
20 private and public practice both, Federal Court,
21 state, and local. So, lots of experience here,
22 and hopefully it'll be put to good use.

23 CHAIRPERSON SLASH: Welcome.

1 MR. KREIDER: Thank you.

2 CHAIRPERSON SLASH: Well, welcome,
3 and thanks for being here.

4 MR. CLAY: I'm very excited to have
5 Scott on the team as we round out the rest of our
6 team, and I look forward to continuing the
7 momentum that we've built.

8 Just to bring the Commission up to speed
9 on some recent events, we had our MLK Day of
10 Service on November 12th. We collaborated with
11 the Indy Parks Department and the City of
12 Indianapolis and volunteered at Watkins Park
13 again this year. We had 45 volunteers, a
14 majority of those coming from the Attorney
15 General's Office.

16 We made meaningful impact through
17 painting, outdoor cleanup, and community support
18 efforts, a really great opportunity for us to get
19 back. We really look forward to that event every
20 year. Next year, hopefully, with a little bit
21 better planning and not so many changes, we'll
22 have that event a little bit earlier and it won't
23 be as cold; okay. We'll have more volunteers.

1 So, that was wonderful.

2 In supporting our Cultural Commissions, we
3 helped coordinate the Torch Bearer Awards, which
4 was November 20th, last Thursday. Five Indiana
5 women were honored by Gov. Braun in his office in
6 an intimate reception. Those women included
7 Congresswoman Erin Houchin, Grace Estabrook,
8 Kristian Little Stricklen, Monica Kelsey, and
9 Betsy Wiley, with Betsy Wiley being a Lifetime
10 Achievement Award winner, and the other four
11 recipients were Torch Bearer Award winners. So,
12 a great opportunity for us to, again, in further
13 collaboration with the Cultural Commissions and
14 the Governor's Office, showing mutual support.

15 We do have a couple of upcoming events
16 that we wanted the Commission to be aware of, the
17 first being the 35th Annual Dr. Martin Luther
18 King, Jr. Indiana Holiday Celebration, which will
19 take place on January 15th at the Indiana
20 Statehouse. It should be a very exciting
21 program, maybe a little bit scaled back from what
22 we've seen in years previous as we try to get
23 back to a more streamlined effort, and then

1 increase participation across the state in other
2 efforts.

3 And then also, on January 27th, we'll host
4 the 27th Annual Holocaust Remembrance Program in
5 coordination with the JCRC. Again, very excited
6 for that. It might have a little bit of a
7 different look that feels a little bit more
8 traditional for this year, but something, again,
9 we are looking forward to.

10 And then looking ahead for the agency,
11 we're very much looking forward to the beginning
12 of session. Now that we know the first two weeks
13 of December most likely won't be anything that we
14 need to be prepared for, we're moving ahead in
15 January, where we'll see an agency bill that
16 helps us bring ourselves up to speed a little bit
17 more with federal language, just to make
18 ourselves more viable for our federal contracts,
19 in which we continue to outpace ourselves from
20 years previous.

21 So, thank you all for the opportunity to
22 collaborate, and thank you.

23 CHAIRPERSON SLASH: Thank you. Can I

1 make a request?

2 MR. CLAY: Yes.

3 CHAIRPERSON SLASH: I was a little
4 shocked when I saw the Women's Commission Torch
5 Bearer Awards were last week --

6 MR. CLAY: Yes.

7 CHAIRPERSON SLASH: -- and I missed
8 them. I just saw people posting that they had
9 received them.

10 MR. CLAY: Yes.

11 CHAIRPERSON SLASH: Can we make sure
12 that we get calendar appointments for the other
13 things?

14 MR. CLAY: Absolutely, yeah.

15 CHAIRPERSON SLASH: Because I would
16 have liked to have been here.

17 MR. CLAY: Very much so, and in
18 transparency, those were a little bit different
19 than we've had in years past, for a number of
20 reasons, but we will make absolutely sure that
21 you guys are included on those moving forward.

22 CHAIRPERSON SLASH: Thank you.

23 COMM. HARRINGTON: Can I add a

1 comment as well?

2 CHAIRPERSON SLASH: Sure.

3 COMM. HARRINGTON: I know several
4 people who did make nominations, and none of them
5 were notified, including myself, so it was a
6 shock to a lot of people to see people being
7 acknowledged, and people who had made nominations
8 weren't even notified of the event, and that
9 hasn't happened the five years that I've been
10 involved. So, I heard you say circumstances, but
11 in building rapport and trying to recognize that
12 is a respect and a courtesy.

13 MR. CLAY: Absolutely.

14 COMM. HARRINGTON: And I'm on the
15 Commission, so I -- when people call to reach out
16 to me, I had nothing.

17 MR. CLAY: Absolutely.

18 COMM. HARRINGTON: And I know for the
19 last probably three months I got asked, so it
20 just caught me off guard as well.

21 MR. CLAY: Absolutely.

22 COMM. HARRINGTON: And I look at
23 myself as an advocate for you to be able to

1 explain to people, and I wasn't in any kind of
2 position for that.

3 MR. CLAY: Thank you.

4 COMM. HARRINGTON: And can I ask
5 another question?

6 CHAIRPERSON SLASH: Yes.

7 COMM. HARRINGTON: I know when you
8 referenced the Holocaust event on 1-27, you said
9 "more traditional." What does that mean?

10 MR. CLAY: I think in years previous,
11 when seeing more survivor stories, we're to the
12 point now -- and again, following the
13 conversation with the JCRC, we're to the point in
14 just history where survivors of the Holocaust are
15 getting smaller and smaller. Those who were
16 directly affected by that are now older, much
17 older.

18 And so, we're moving into the second
19 generation. Survivors were -- they might have
20 been parents or possibly even grandparents who
21 are survivors. And so, again, trying to go back
22 to really the understanding and the basis of what
23 the Holocaust was, how we can continue to prevent

1 it, and also provide a memorial for those who
2 were victims of that is really what we're aiming
3 to do.

4 So, I'd say more traditional in the sense
5 that I think in years past, there's been more of
6 a keynote speaker. I think we're going to move
7 away from that and really take it back to more of
8 a remembrance program.

9 COMM. HARRINGTON: Okay. Thank you
10 for the clarification.

11 MR. CLAY: Of course.

12 CHAIRPERSON SLASH: Any other
13 questions?

14 (No response.)

15 CHAIRPERSON SLASH: Okay. Do you
16 have any questions, Comm. Silberberg?

17 COMM. SILBERBERG: No.

18 CHAIRPERSON SLASH: Okay. Also, I
19 just wanted to say thank you also for inviting us
20 to come by with the staff earlier today. It was
21 great catching up, for those of us who were able
22 to be here.

23 MR. CLAY: Absolutely.

1 CHAIRPERSON SLASH: Okay. We'll
2 begin with Old Business, and I understand we have
3 quite a few oral arguments that are present
4 today, so we'll try to give the best information
5 as possible and keep things fairly similar, if we
6 can; okay?

7 All right. The first -- oldest case that
8 we have is Mary Ruz versus Trilogy Management
9 Services, LLC, Case EMco24060492. The case was
10 assigned to Comm. Jackson, but we have an oral
11 argument today.

12 Do we have both parties present?

13 MR. LOSTUTTER: I believe we do. The
14 Complainant is here, and with someone who will
15 help with the translation, and we also have a
16 representative, I think. Again, do we not --

17 MS. SHAUGHNESSY: Yes.

18 MR. LOSTUTTER: -- have a --

19 MS. SHAUGHNESSY: Yes, right here.

20 MR. LOSTUTTER: Okay. We do, right
21 here. Okay. So, they're both in person today,
22 so --

23 CHAIRPERSON SLASH: Okay. So, we

1 have -- you have five minutes each, and so,
2 essentially the way that we have done these
3 things here before is you'll each have five
4 minutes. You can choose to use your entire
5 opening five minutes to share your case, or you
6 can say, "I'm going to use three now and reserve
7 two for later," in your rebuttal; okay?

8 MR. VARGASS: Okay. Thank you.

9 CHAIRPERSON SLASH: Do we understand?

10 MR. VARGASS: Correct.

11 CHAIRPERSON SLASH: Okay.

12 MR. VARGASS: Thank you.

13 CHAIRPERSON SLASH: And --

14 VICE-CHAIR RAMOS: Madam Chair?

15 CHAIRPERSON SLASH: Yes.

16 VICE-CHAIR RAMOS: So, the Commission
17 reviewed this last time, but there was an error
18 in the opportunity for Ms. Ruz to be able to
19 present.

20 CHAIRPERSON SLASH: Uh-huh.

21 VICE-CHAIR RAMOS: So, we had made a
22 decision and we put it on hold on giving them the
23 opportunity to have proper communications. So --

1 CHAIRPERSON SLASH: Okay.

2 VICE-CHAIR RAMOS: -- I wanted to
3 just -- but we had made a decision, so we're
4 waiting to review it again.

5 CHAIRPERSON SLASH: Okay. Thank you
6 so much.

7 All right. And we'll begin with the --

8 MR. LOSTUTTER: Complainant.

9 CHAIRPERSON SLASH: -- yes, the
10 Complainant.

11 MR. VARGASS: So, it's a statement
12 directly from Ms. Mary Ruz. I'm just
13 translating. She thought that it'd more
14 impactful if it was in English for everyone to
15 understand.

16 CHAIRPERSON SLASH: Just a brief
17 moment. Do we have a clock?

18 MR. LOSTUTTER: Yes.

19 CHAIRPERSON SLASH: Okay.

20 MR. VARGASS: So, I will be reading
21 the statement from her point of view that she
22 prepared and we translated as best we could. So,
23 I will begin.

1 I will begin by presenting some moments I
2 lived at Wellbrooke of Carmel, and I will show
3 that at all times the Executive Director, the
4 Payroll Manager, my outgoing Manager, A.J., and
5 the incoming Manager, Candale Wilson, were
6 notified of what was happening, and yet the
7 mistreatment I received was never stopped.

8 With the cook, Asprey Hamilton, I
9 experienced one of the most frightening moments.
10 She constantly yelled at me, to order me to do
11 tasks that were not my responsibilities, such as
12 washing the chef's dishes. On one occasion she
13 yelled at me so loudly and came so close that she
14 lifted her hand, and I saw in slow motion her
15 hand went up. I felt real fear, because I
16 thought she would -- could physically attack me.

17 I ran to the second floor, and the
18 supervisor asked me what had happened. I
19 explained to her that she said she would talk --
20 I explained it to her, and she said she would
21 talk to Asprey, but when she tried to do so,
22 Asprey refused to listen.

23 I also suffered mistreatment from

1 Miss Resheta Tyson. She yelled at me very loudly
2 in English with a bad attitude, and I didn't
3 understand what she was saying while she pointed
4 at me and raised her voice. Once, Ann Brinkworth
5 witnessed the mistreatment. Resheta yelled at me
6 loudly and rudely from the second floor, in the
7 elevator, down the entire first floor hallway,
8 through the dining room full of people eating,
9 and when entering the kitchen, she continued
10 yelling. Miss Ann heard everything.

11 The next day I went to Ann's office and I
12 told her call my daughter, Maria Oropeza, so she
13 could translate the conversation for me, and
14 that's what I did. Ann acknowledged that she was
15 indeed yelling at me, but said she would not tell
16 me what she was yelling, and informed me that she
17 would open a formal investigation because the
18 situation had been serious, and it would include
19 the Executive Director, Kylie Carmack, and
20 Director of Food Services, Anthony Shaffer.

21 On another occasion, Resheta saw me
22 talking with the cook, Ryan, while using my phone
23 to translate. She came close to me and yelled so

1 aggressively and so near my face that Anthony
2 Shaffer, Director of Food Services, and my
3 Manager feared she might physically attack me.
4 He himself asked me to go to his office and wait
5 there until she calmed down so I could leave,
6 since my shift was over. I waited there for
7 about 30 minutes.

8 From Shirley McGill I also received
9 screams and mistreatment. There was one
10 particularly serious day when Shirley McGill
11 began yelling at me very loudly while walking
12 aggressively toward me. I felt afraid -- I felt
13 afraid because of her attitude, so I placed my
14 phone in my pocket of my shirt with the camera
15 facing forward so she would stop. As soon as she
16 saw the phone, she believed she might be being
17 recorded. She stopped yelling immediately.
18 Witnesses to this were the two cooks she was
19 training.

20 That same night I spoke with my Manager,
21 Candace Wilson, to explain what had happened. I
22 told her that Shirley stopped when I placed the
23 phone in my pocket with the camera facing

1 forward, and I also explained how worried I was
2 about her behavior. I asked if the next day the
3 three of us could talk so she would stop yelling
4 at me and having a bad attitude toward me.

5 But the next day, two nurses came looking
6 for me and asked me to go with them to the office
7 of Dawn McGill, the Nurse Manager. And on her
8 behalf, they told me that I had to leave. I
9 asked why, and said I wanted to see -- I wanted
10 to speak with Dawn McGill to ask her, and they
11 replied that she was not in the building and that
12 I had to go.

13 I want to make clear that Dawn McGill is
14 the sister of Shirley McGill, the same person I
15 had talked to Candale Wilson about the day
16 before, telling her that she was yelling at me
17 and that she stopped only when I placed my phone
18 with the camera facing her. I saw this attitude
19 from Dawn McGill as retaliation because I had
20 made the complaint about her sister.

21 The next day when I arrived at work, the
22 Manager, Candale Wilson, told me to leave. I
23 said I would call my daughter to translate for

1 me. She took the phone out of my hand forcefully
2 and rudely, ended the call with my daughter, and
3 told me, "You leave or I will call the police."
4 I was scared and did not understand what was
5 happening, but I left.

6 I was informing management directly about
7 the mistreatment, the yelling, and the hostile
8 environment I was experiencing. On January 31st,
9 2024 I sent the e-mail asking for help to put an
10 end to the problem, and I explained that I was
11 even afraid to go to the bathroom. This is the
12 evidence --

13 MR. LOSTUTTER: One minute.

14 MR. VARGASS: Okay.

15 I want to highlight the conversation with
16 Candace Wilson. She told me, "Yes, I remember
17 them firing you unfairly." She also explained --
18 she also explained that she had been told -- that
19 she had been told that I had prior encounters
20 with employees saying that I was in fact a bully.

21 That day she had to take her badge -- she
22 asked her to take my badge, asked me to leave,
23 and if I didn't, they had to call the police.

1 She clarified in the conversation that she had
2 with me that "these were orders, it was nothing
3 personal, it was me following the directions of
4 my bosses," and she specified, "I was directed by
5 the Executive Director, who is my boss, to take
6 action."

7 So -- okay. So, these statements confirm
8 that there was no procedure, no open
9 investigation, higher orders were blindly
10 followed, and yes, I was fired unjustly.

11 She wants to say that if you guys need
12 e-mail conversations, she has everything for you,
13 that she provided everything directly. So, she
14 has all of the responses, but the e-mail, if you
15 need them -- she knew everything the whole time
16 of what was happening, and still nothing was
17 done.

18 And I think that's our time.

19 CHAIRPERSON SLASH: Thank you.

20 Is that five minutes?

21 MR. LOSTUTTER: Just a few seconds
22 left.

23 CHAIRPERSON SLASH: Okay. Thank you.

1 MS. SHAUGHNESSY: Is it okay if I
2 come and stand?

3 MR. LOSTUTTER: Yes.

4 MS. SHAUGHNESSY: I just want to make
5 sure I can be heard.

6 Thank you. Erin Shaughnessy. I represent
7 Trilogy Management Services. I just want to
8 address a couple of things before the Commission.

9 Ultimately, as Trilogy sees, this case
10 comes down to three things: That Ms. Ruz never
11 complained of discrimination or harassment based
12 upon her color, which is what her charge alleges
13 happened. The only complaint that Trilogy has
14 that Ms. Ruz made was about -- was about when an
15 employee knocked on her car window, and she
16 thought she was knocking more aggressively.

17 In reality, the employee was coming out to
18 check on Ms. Ruz because she had not come back
19 from her meal break. She had been gone for 45
20 minutes. The employee was concerned about
21 Ms. Ruz, seemed to find her looking unresponsive
22 in her car, knocked on the car window to check
23 how she was doing.

1 This was all investigated whenever Ms. Ruz
2 brought the complaint, and again, it was
3 confirmed that the employee had no ill intent,
4 was simply trying to check on Ms. Ruz, and in
5 fact, Ms. Ruz was never disciplined for coming
6 back late from her meal break.

7 Second, Ms. Ruz never received any sort of
8 formal or informal discipline. I believe in her
9 charge she mentions a reprimand. That was
10 ultimately never issued.

11 And then third, what this comes down to is
12 Ms. Ruz violated company policy in the workplace
13 by recording and/or suggesting that she was
14 recording, both in public areas where there are
15 residents, but also within the kitchen, where
16 there's private health information for residents.

17 This happened in the course of a
18 conversation with both Candace Wilson, who is
19 Ms. Ruz's direct supervisor, as well as an Area
20 Director who was at the facility training
21 Ms. Wilson at the time. During the conversation,
22 Ms. Wils -- Ms. Ruz suggested that she had her
23 phone in a front pocket with the camera facing

1 outwards, and that that was recording residents.

2 Ms. Ruz was suspended pending
3 investigation. There was a thorough
4 investigation done, in which statements were
5 collected from Ms. Wilson, Mr. Rhims, the Area
6 Director, as well as a witness that had heard
7 Ms. Ruz mention that she had been recording or
8 suggested that she was recording.

9 In fact, during the conversation with
10 Ms. Wilson and Mr. Rhims, Ms. Ruz suggested like,
11 "Yeah, I record. I have recorded on my phone."
12 And even when they called Ms. Ruz in for
13 additional statements, to let her make a
14 statement during the course of the investigation,
15 she also did not deny that she had recorded, and
16 in fact, only said that she did not have any
17 videos currently on her phone.

18 This was obviously a very big concern for
19 a senior living community like Trilogy is. The
20 public areas are the home for these residents, so
21 recording is an invasion of privacy, and
22 especially a recording in the kitchen, where
23 there's potential private health protected --

1 private protected information of the residents'
2 health information, about dietary restrictions
3 and the like. That's also a concern for the
4 community.

5 So, ultimately, the complaint was fully
6 investigated and substantiated based on the
7 numerous witness testimony and Ms. Ruz's lack of
8 denial that she had recorded or suggested that
9 she had recorded in the community.

10 Ultimately, even from Ms. Ruz's statement
11 today, none of this detail came to light before
12 the Commission before, but I would note that
13 Ms. Ruz even today doesn't mention that any of
14 these instances in which she believed she was
15 being yelled at by other employees were based
16 upon her color. So, ultimately we would ask that
17 the Commission affirm its finding of no cause.

18 Thank you.

19 VICE-CHAIR RAMOS: And I have some
20 questions.

21 (Discussion off the record.)

22 CHAIRPERSON SLASH: Does she
23 understand what was just said?

1 MR. VARGASS: Correct. I'm
2 translating right now.

3 CHAIRPERSON SLASH: You have two
4 minutes, if you'd like to rebut.

5 MR. VARGASS: Okay. For sure.

6 So, just to rebut, I think there are
7 multiple e-mails, multiple instances that she had
8 recorded where they were advised of what was
9 happening, so this was not based on one account,
10 even though one complaint, it was not based --
11 she's saying this all stemmed from that one
12 conversation, which was an actual argument they
13 had. When they come to the window, she did
14 report that as additional report, but there were
15 different e-mails, different communications that
16 she has already and submitted before, where there
17 were multiple instances that she recorded this.
18 It wasn't based on one report.

19 And she was never recording. She was
20 fearing for her life, that she would be struck.
21 She didn't now how to defuse the situation. She
22 wasn't trained to defuse that situation. She
23 wasn't trained in the workplace, or feel like she

1 might be attacked and how to get out of that
2 incidence.

3 So, she thought maybe that would stop --
4 so, that's -- those are what they used to maybe
5 get her out of the workplace, but they didn't
6 explain any of that to her. They just told her,
7 "We will call the police on you if you don't
8 leave the premises." That wasn't explained to
9 her ever.

10 So, that's our case that we want to rebut.
11 It's multiple cases of this happening.

12 CHAIRPERSON SLASH: And everything
13 that she has there has already been submitted;
14 correct?

15 MR. VARGASS: There is some new stuff
16 that she had, communication that she can --

17 CHAIRPERSON SLASH: We can't take any
18 additional information that we already --

19 MR. VARGASS: The majority of it was
20 submitted before.

21 MR. LOSTUTTER: Yeah, the --

22 CHAIRPERSON SLASH: Okay. All right.

23 MR. VARGASS: But originally it was

1 lost, but then we resubmitted that same day, on
2 the last period. The only new communication she
3 had is with the manager that's not there anymore,
4 saying it wasn't fair, but she was following her
5 boss' instructions, that she had to tell her to
6 leave for the day. Other than that, all of the
7 other communications were submitted.

8 CHAIRPERSON SLASH: Everything else
9 is included? Okay. Thank you.

10 Okay. Thank you. You have two minutes.

11 MS. SHAUGHNESSY: Thank you,
12 Commissioner.

13 I would just, again, affirm what I've
14 previously said before, that my client is not in
15 possession of any additional complaints from
16 Ms. Ruz beyond the complaint about the co-worker
17 that had come and knocked on her door, so I
18 obviously am not sure exactly what she has in her
19 possession to be able to know whether that's a
20 complaint, but ultimately, my client is not in
21 possession of any additional evidence of
22 complaints made by Ms. Ruz.

23 And that's about all that I have, and I'm

1 happy to accept any questions that the
2 Commissioners have.

3 CHAIRPERSON SLASH: Thank you.
4 Questions?

5 VICE-CHAIR RAMOS: So, you have on
6 staff bilingual individuals that speak in
7 Spanish?

8 MS. SHAUGHNESSY: Commissioner, I am
9 not -- I am not -- I don't have that information
10 on me right now, but I'm happy to provide that
11 information to the Commission.

12 VICE-CHAIR RAMOS: So, you have --
13 you hire -- your company, the company, hires
14 individuals who are non-English speakers and they
15 do not have the ability to translate to them?

16 MS. SHAUGHNESSY: Commissioner,
17 again, I don't -- I don't know right now if there
18 is. I believe with Ms. Ruz specifically, while
19 the investigation was going on, there was a
20 translator used from a different community to
21 ensure that there was an unbiased party involved,
22 but beyond that, I'm not sure if there is someone
23 currently on staff at the community that is

1 bilingual and could translate.

2 VICE-CHAIR RAMOS: And are all of
3 your policies in multiple languages?

4 MS. SHAUGHNESSY: Commissioner, I do
5 not know that at this point in time.

6 VICE-CHAIR RAMOS: I have great issue
7 with this.

8 MS. SHAUGHNESSY: I'm happy to look
9 into it and get back to the Commission on that.

10 CHAIRPERSON SLASH: Do we have record
11 of there being a reasonable accommodation request
12 regarding language?

13 MS. SHAUGHNESSY: You're --
14 Commissioner, no, I don't believe so, but again,
15 off the top of my head, I'm not sure, but I can,
16 again, check into that and get back to the
17 Commission.

18 CHAIRPERSON SLASH: Are there any
19 other questions?

20 COMM. TOLLIVER: I think just a
21 follow-up on your question, just to see if
22 there's a different solution.

23 MR. VARGASS: For the translator?

1 CHAIRPERSON SLASH: Uh-huh.

2 MR. VARGASS: She didn't make a
3 formal request. She would provide her own -- ask
4 for her own person to call to translate. They
5 allowed her to use a telephone app where she
6 would translate. She wouldn't know to ask that
7 question, so she provided a translator herself,
8 either the app, or she would call someone that
9 would speak and then translate for her. She was
10 not asked if they needed one as well. She said
11 the only day that they offered to provide an
12 interpreter was the day she was fired. That day
13 was when they asked her, and someone called her
14 to provide the translation in Spanish, then she
15 was let go. And that was the time she was
16 provided a translator.

17 VICE-CHAIR RAMOS: When she was
18 hired, you had to go through a new employee hire,
19 initiation process. Was that in Spanish?

20 MR. VARGASS: She said it was kind of
21 a mix, but they let her use her phone to
22 translate some items. So, they let her use her
23 phone to translate when she's --

1 COMM. JACKSON: Well, the question
2 is -- well, I guess I'm going to ask you that
3 question. So, do you all have an English policy
4 book and a Spanish policy book?

5 MS. SHAUGHNESSY: Commissioner, as I
6 mentioned before, I would have to check into
7 that. I'm --

8 COMM. JACKSON: Well, you're
9 supposed --

10 MS. SHAUGHNESSY: -- not positive.

11 COMM. JACKSON: -- to know these
12 things when you come to the Commission.

13 MS. SHAUGHNESSY: I -- I apologize.

14 COMM. JACKSON: So, we can't -- we
15 could not -- I mean I worked for United Parcel
16 Service and I was supervisor, and I had to sign
17 in the management of the policy book. I read
18 everything, and then I signed the policy book,
19 indicating -- because I can produce that, even to
20 this day, and I signed my signature on the policy
21 book. So, if you don't have a Spanish policy
22 book that she read and acknowledged she
23 understood the policy, then you can't hold

1 somebody accountable for something they don't
2 know.

3 MS. SHAUGHNESSY: Commissioner, we do
4 have an acknowledgement that was signed on behalf
5 of Ms. Ruz, and that was produced with our
6 position statement in this matter, but as I stand
7 here today --

8 COMM. JACKSON: You have an --

9 MS. SHAUGHNESSY: -- I cannot --

10 COMM. JACKSON: You have an
11 acknowledgement of what?

12 MS. SHAUGHNESSY: Of reading the
13 policy book that exists for the company.

14 COMM. JACKSON: But the policy book's
15 in English.

16 MS. SHAUGHNESSY: The -- I mean yeah,
17 there is an English version of the policy book,
18 Commissioner, yes.

19 COMM. JACKSON: But there's no
20 Spanish version?

21 MS. SHAUGHNESSY: I am not certain of
22 that, Commissioner. I would have to check into
23 that.

1 COMM. JACKSON: Okay. Because if
2 somebody is trying to, you know, get employed or
3 keep employment and they're using a device to
4 translate, then the question is: Can the person
5 really effectively use a device that they're
6 trying to use for translation? And so, there are
7 still some glitches in that kind of technology,
8 so I -- you know, I don't know that we can -- I
9 just don't feel -- I don't feel good about this
10 case, and then your knowledge of it is not
11 thorough.

12 MS. SHAUGHNESSY: I'm sorry,
13 Commissioner. I'm --

14 COMM. JACKSON: You don't have to be
15 sorry.

16 MS. SHAUGHNESSY: I didn't expect
17 to -- I came here prepared to address the charge
18 that was about color discrimination. That
19 doesn't --

20 COMM. JACKSON: All of that -- so,
21 all of that plays into it when you talk about
22 discrimination, I think.

23 VICE-CHAIR RAMOS: I agree.

1 COMM. JACKSON: I mean if you're
2 talking about discrimination, to avoid
3 discrimination you have to make sure you fully
4 prepare yourself for any possibility that there
5 would be. And it's not intentional.

6 MS. SHAUGHNESSY: Yeah. I mean I
7 just -- respectfully, Commissioner, I mean
8 there's been no allegations put forth thus far
9 that Ms. Ruz was discriminated against based on
10 the fact that she speaks Spanish. As I said, I'm
11 happy to look into and provide whatever
12 additional information that the Commission
13 believes that they need to address this to see if
14 there is policy put forth in Spanish, but as that
15 was not an aspect of the initial charge, that was
16 not an aspect of the position statement that my
17 client has submitted.

18 COMM. TOLLIVER: That's about the
19 issue with the phone?

20 MS. SHAUGHNESSY: No, no, the issue
21 with the phone is that she was recording, like
22 video recording on her phone.

23 CHAIRPERSON SLASH: And it wasn't in

1 regards to the app that she was using for
2 translation and to support her ability to
3 understand?

4 MS. SHAUGHNESSY: No, no. She -- she
5 claimed -- she came to Ms. Wilson and Mr. Rhims
6 indicating she was trying to share something that
7 had taken place, and during the course of the
8 conversation she suggested that she had been
9 recording on her phone that was in her pocket,
10 that they could see what -- the camera up front,
11 facing, in a front pocket. She was wearing a
12 jacket that had a front pocket on it.

13 So, ultimately, the whole conversation
14 surrounding the phone was whether she was
15 recording in a public area where there was
16 residents, and recording in the kitchen where
17 there was health information for residents.

18 And that's ultimately what led to the
19 investigation was the phone being used as a
20 recording device, which Ms. Ruz seemingly
21 admitted to during that conversation, saying, "I
22 record. Yes, I use my phone." And then later,
23 during the subsequent investigation, when she was

1 brought in to submit to be questioned and to
2 submit a statement, didn't deny that she wasn't
3 recording. She simply said that she didn't have
4 videos on her phone presently.

5 COMM. HARRINGTON: Can I ask her?

6 CHAIRPERSON SLASH: Yes.

7 COMM. HARRINGTON: When she admitted
8 it, was the translator there, or --

9 MS. SHAUGHNESSY: Yes.

10 COMM. HARRINGTON: -- was there --

11 MS. SHAUGHNESSY: Yes, Commissioner,
12 during that meeting, there was a -- there was a
13 translator that they used from a different
14 facility or a different community. Trilogy has
15 multiple senior living communities, and so, they
16 had someone from a different community become
17 involved to maintain and like have an unbiased
18 translator there.

19 COMM. HARRINGTON: Okay.

20 VICE-CHAIR RAMOS: Have there been --
21 there were numerous situations that were raised
22 based on the testimony where there were issues
23 that she was being yelled at for whatever

1 reasons, and, you know, undoubtedly they're
2 oriented around miscommunication or
3 misunderstanding because of the language.

4 I think one incident of that is certainly
5 the recording, and granted, you addressed that,
6 but there are other incidents that are in the
7 documentation that state that she doesn't
8 understand, and her means of being able to do
9 that is to try and, you know, capture the
10 conversation and have somebody translate it.

11 And you don't have anybody on staff,
12 apparently, that can communicate in that. It's a
13 typical conversation, with I being, as a child,
14 learning Spanish, that I was preferably fluent in
15 it, to help to her understanding you, it would
16 avoid a great deal of this conversation that
17 we're having right now.

18 So, I'm -- you know, this is my case.
19 This is a case that I reviewed, and if there are
20 other questions; otherwise, I would make a
21 recommendation.

22 CHAIRPERSON SLASH: Are there further
23 questions prior to us making a recommendation?

1 (No response.)

2 VICE-CHAIR RAMOS: Are you ready?

3 CHAIRPERSON SLASH: Do you have any
4 further questions?

5 COMM. JACKSON: No, I don't.

6 CHAIRPERSON SLASH: Okay. And --

7 VICE-CHAIR RAMOS: Can we take a
8 moment break, please?

9 (Discussion off the record.)

10 CHAIRPERSON SLASH: This is your
11 first time with us. Can you remind us of our
12 options prior to us making a recommendation?
13 Okay. For me, that we are to affirm, remand, or
14 modify at this point.

15 MR. CLAY: I believe so.

16 CHAIRPERSON SLASH: Okay. I want to
17 make sure before we get a recommendation or a
18 motion that we can recommend at this time. Do
19 any other Commissioners have a recommendation?

20 COMM. JACKSON: So, I have to make a
21 recommendation?

22 CHAIRPERSON SLASH: Yes.

23 COMM. JACKSON: Yeah, I think we

1 ought to remand it back to get a more thorough
2 understanding of what happened.

3 CHAIRPERSON SLASH: Okay. Is there a
4 motion?

5 COMM. TOLLIVER: So moved.

6 CHAIRPERSON SLASH: Okay. And a
7 second?

8 VICE-CHAIR RAMOS: Second.

9 CHAIRPERSON SLASH: Okay.

10 MR. LOSTUTTER: All right. We will
11 call the roll.

12 Comm. Silberberg?

13 COMM. SILBERBERG: Aye.

14 MR. LOSTUTTER: Comm. Harrington?

15 COMM. HARRINGTON: Aye.

16 MR. LOSTUTTER: Comm. Jackson?

17 COMM. JACKSON: Aye.

18 MR. LOSTUTTER: Comm. Tolliver?

19 COMM. TOLLIVER: Aye.

20 MR. LOSTUTTER: Vice-Chair Ramos?

21 VICE-CHAIR RAMOS: Aye.

22 MR. LOSTUTTER: Chair Slash?

23 CHAIRPERSON SLASH: Aye.

1 MR. LOSTUTTER: The ayes have it.

2 CHAIRPERSON SLASH: Okay. And that
3 was, just for clarity, we are remanding it back
4 for investigation and clarity, just to make sure
5 that we have more details and more understanding.

6 MR. VARGASS: Understood. Can I ask
7 a question? If you guys need more information,
8 are we allowed to provide that, or is it what we
9 have?

10 CHAIRPERSON SLASH: You will work
11 directly with the Docket Clerk --

12 MR. VARGASS: Perfect. Thank you.

13 CHAIRPERSON SLASH: -- and then he
14 will follow up with you.

15 MR. VARGASS: Understood.

16 MR. LOSTUTTER: You need to speak
17 with me after the meeting.

18 MR. VARGASS: Understand.

19 CHAIRPERSON SLASH: Thank you.

20 All right. We'll move to the next case,
21 Juan Rodriguez Rogers versus First Student, Inc.,
22 Case EMno24030198. Do we have both parties
23 present? I think I see both parties.

1 MR. LOSTUTTER: We have the
2 Complainant here, much like our previous case,
3 somebody here to help with the translation, and
4 then on-line we have a representative for the
5 Respondent, and if she would be so kind as to
6 announce herself and give her name there, mainly
7 for our translator -- or our transcriptionist.

8 MS. CHMIELEWSKI: Hi. Yes, this is
9 Ciara Chmielewski, with First Student.

10 CHAIRPERSON SLASH: Thank you.

11 MR. LOSTUTTER: All right.

12 CHAIRPERSON SLASH: Similar to our
13 last oral argument, we will begin with five
14 minutes from the Complainant, then we will have
15 five minutes from the Respondent, and if either
16 of you would like to hold some of that time for
17 your rebuttal, just let me know what that time is
18 so that we can reserve it and add it to your
19 other time.

20 And you've got your clock ready, and I'm
21 going to --

22 MR. LOSTUTTER: Right.

23 CHAIRPERSON SLASH: -- try my best to

1 have one over here, too, just to make sure
2 that --

3 MR. LOSTUTTER: It is ready.

4 CHAIRPERSON SLASH: All right.
5 Fantastic.

6 And you may begin.

7 MS. GILL: Okay.

8 So, Mr. Rodriguez was a bus driver for
9 First Student. He was doing a field trip on this
10 particular day under investigation, and he was
11 issued a different type of bus than he normally
12 drives. Just take note that on his regular
13 routes there are railroad tracks to routes for
14 school and back and forth, and so, he's always at
15 railroad tracks.

16 So, there was an allegation that -- people
17 on the field trip said that he did not stop at a
18 railroad track. This incident took place 15 days
19 before he was terminated from his position, but
20 the situation was addressed to him. Being as
21 though English is not his first language, he
22 was -- he is part of a union.

23 He was cornered by a supervisor who --

1 without union present, and was reprimanded in a
2 tone that was -- talked to him like a child and
3 was pointed at and said, "You better not lie to
4 me" was how it started out in regards to asking
5 about the day of the field trip, where there was
6 accusations that he did not stop at a railroad
7 track.

8 He was asked if he stopped at the railroad
9 track. He said he did stop at a railroad track.
10 Again, the type of bus was a little different in
11 how they react when you're stopping, so the
12 feeling in the bus maybe had been different.
13 There was no working camera on the bus.
14 Mr. Rodriguez pointed that out.

15 The union rep was very, very disappointed
16 that they were not asked to be present at the
17 time when he was asked about the situation, and
18 this is why Mr. Rodriguez is here. He feels that
19 he was -- they were -- in the workplace, that
20 they were trying to get rid of people that wasn't
21 of certain stature, and so that he was an easy
22 out for that.

23 But again, he's just here because there

1 was no working camera on the bus to prove whether
2 the accusation was true, because he uses the
3 railroad track every day to and from his regular
4 routes for school, and on this field trip day,
5 they're saying that he did not stop on the way
6 back at the railroad track, and he was terminated
7 from his position.

8 CHAIRPERSON SLASH: Thank you. Would
9 you like to reserve your remaining time?

10 MS. GILL: Yes, please.

11 CHAIRPERSON SLASH: Okay. You'll
12 have two minutes and 45 seconds additional --

13 MS. GILL: Okay.

14 CHAIRPERSON SLASH: -- okay?

15 Okay. And we'll hear from the Respondent.
16 You may begin when you are ready.

17 MS. CHMIELEWSKI: Okay. Good
18 afternoon, Commissioners, and thank you for the
19 opportunity for First Student to present our
20 argument.

21 The main point of this case is that it
22 centers on an undisputed issue, a serious
23 federally regulated safety violation at a

1 railroad crossing involving student passengers on
2 the way to a school field trip. The Complainant
3 admitted that he did not stop, did not open the
4 door, and proceeded through the railroad
5 crossing, despite repeated instruction.

6 Both federal law and company policy
7 requires strict compliance, because school
8 children were on board. This is not a
9 communication issue, and it is not in any way
10 connected to Complainant's national origin.

11 The record includes multiple and
12 consistent sources confirming a violation. The
13 Indianapolis Public Schools filed a complaint
14 submitted on February 1st, 2024. The buses come
15 in and multiple other individuals from the school
16 repeatedly told him to stop at the bus -- or at
17 the railroad crossing, and the Training Manager,
18 Mr. Steele, documented Complainant's admission in
19 writing that he did not stop.

20 Additionally, Complainant had just
21 successfully performed the required procedure at
22 the first crossing earlier that day. That shows
23 that he clearly understood the rule, but chose

1 not to follow it a second time.

2 The company also has clear policy
3 structure in place. He completed the mandatory
4 railroad crossing training, signed the policy
5 acknowledgement and the handbook that states that
6 failure to follow this procedure may result in
7 termination. These rules apply equally to all
8 drivers.

9 The disciplinary process was also handled
10 properly. The IPS complaint initiated the
11 review. I apologize; sorry. My computer blacked
12 out for a second. The IPS complaint initiated
13 the review. This was not something that First
14 Student initiated.

15 Also, the union vice-president was present
16 during the disciplinary meeting, so he did have
17 union representation there, and we have a
18 statement from the union vice-president that he
19 was at that meeting.

20 Additionally, Complainant communicated
21 effectively throughout the entire process, and
22 never once requested an interpreter during hire,
23 training, or at the meeting. In fact, he

1 verified the accuracy of the complaint that he
2 did go through the railroad crossing.

3 There is no evidence whatsoever connecting
4 his termination to his national origin: No
5 remarks, no conduct, no pattern, and no disparate
6 treatment. This claim of discrimination is based
7 solely on subjective belief.

8 Furthermore, the company even offered him
9 the opportunity to return as a bus monitor, a
10 nondriving role, which directly contradicts any
11 suggestion of discriminatory motive. Complainant
12 rejected this offer.

13 And importantly, he -- neither he nor the
14 union filed a grievance under the CBA, despite
15 that being the appropriate mechanism if he
16 believed the decision was unfair.

17 In short, this was a lawful,
18 nondiscriminatory termination based solely on the
19 serious safety violation involving students. The
20 decision was consistent with our policy,
21 supported by training and supported by witness
22 testimony, and also supported by the customer's
23 complaint. For these reasons, the prior finding

1 should be affirmed.

2 Thank you.

3 CHAIRPERSON SLASH: Thank you. And
4 for your reference, you have about a minute left;
5 okay?

6 MS. CHMIELEWSKI: Thank you.

7 CHAIRPERSON SLASH: Okay. Back to
8 you, so you have, if you need them, two minutes
9 and 45 seconds.

10 MS. GILL: Yes.

11 They said that the union rep, or manager,
12 was present for the disciplinary part of it, but
13 for the first initial speaking about the
14 incident, what happened during it, he was not
15 present. He actually went to Juan and said, "Why
16 didn't you wait for me? Why wasn't I there?"
17 And that's what took place. So, at the
18 termination is when the union rep was available.

19 There was no working camera on the bus.
20 Most buses have cameras to document situations.
21 Mr. Rodriguez's English is not the first
22 language. He also mentioned that he was talked
23 to in a form to where, "You did this; correct?"

1 So, if someone -- obviously when you end
2 like that, not English being a first language, is
3 going to respond in a positive -- different
4 sound. So, that is the way he was talked to, and
5 so, he said, "No, no, no, the bus was stalling on
6 the way. It was a different type of bus used."
7 He followed rules each and every day on his
8 regular routes.

9 He got railroad tracks to and from the
10 school. There's never been any issue in regards
11 to this. This was a different type of bus. It
12 was on the way back, because clearly she said he
13 stopped at the first one. This bus was stalling,
14 it had problems, he radioed it in to his
15 supervisor on the way to the field trip.

16 And they are telling a tale when it comes
17 to the union rep being available, because he was
18 not in the initial findings of the story that --
19 or the type of, I guess, complaint that was made
20 about him not stopping on the way back. There
21 was no children on the bus. There was staff and
22 a bus monitor that was really irritated with the
23 company and being in her role.

1 So, that is his information, unless you
2 have anything else to add.

3 MR. RODRIGUEZ ROGERS: No. Thank
4 you.

5 CHAIRPERSON SLASH: Okay. You have
6 about three minutes.

7 MS. CHMIELEWSKI: I apologize. Was
8 that -- was that for me?

9 CHAIRPERSON SLASH: Yes, yes.

10 MS. CHMIELEWSKI: Okay. Perfect.

11 I would just like to highlight that for
12 our records the senior vice-president of the
13 union was present for those communications.
14 Additionally, Complainant suggested that his bus
15 stalled; however, we have no record of this bus
16 in any maintenance record ever stalling or having
17 issues of stalling.

18 And just to point out that if the bus was
19 having issues stalling, the correct procedure
20 would not be go through a railroad crossing and
21 risk having it stall on the railroad. It would
22 be pull over and call maintenance and the shop.
23 That would have been the correct procedure for

1 that, not put anybody at unnecessary risk.

2 Additionally, we would like to point out
3 that Complainant, if he complains the discipline
4 was too harsh, we have a zero-tolerance policy
5 for being directly involved with the safety of
6 children. And we also went above and beyond to
7 return him as a monitor. We worked directly with
8 the senior vice-president, the union, and there
9 is no record of ever demeaning him or speaking in
10 that manner to him.

11 CHAIRPERSON SLASH: Does that
12 conclude your statement?

13 MS. CHMIELEWSKI: Yes, correct.

14 CHAIRPERSON SLASH: Okay. Thank you.

15 Commissioners, do you have questions?

16 COMM. JACKSON: Yeah, I have one.

17 CHAIRPERSON SLASH: Okay.

18 COMM. JACKSON: So, these buses,
19 although different, do they have the same kind of
20 braking system?

21 MS. CHMIELEWSKI: Correct, the buses
22 do have the same braking systems. The only thing
23 that was different is one was diesel and one was

1 propane, so it -- for the gas that would be
2 changed.

3 COMM. JACKSON: Because I've been
4 doing a recent study on grade-level railroad
5 crossing train collision with vehicles. There's
6 about a thousand of those every year in America.
7 I've been working with a lady whose husband was
8 killed in a grade-level train crossing accident
9 last December. So, it's a serious issue.

10 So, if he acknowledged that he didn't
11 stop, or a rolling stop, and I suppose the policy
12 is to come to a full stop, and you're saying that
13 he did not acknowledge that he didn't stop?

14 MS. GILL: He came to a full stop,
15 and he can -- he can elaborate more. The feel of
16 the bus when it's diesel versus propane, you feel
17 the bus. Like you're not moving completely,
18 you're still feeling the bus. This bus was
19 having issues, so you would feel it regardless.
20 He came to a complete stop.

21 COMM. JACKSON: Well, I have buses,
22 so the feeling is the same. He didn't -- he
23 didn't -- I'm just saying mechanically --

1 MS. GILL: It was having an issue.

2 It was -- it was having like a stalling --

3 COMM. JACKSON: I understand --

4 MS. GILL: -- issue.

5 COMM. JACKSON: I understand that,
6 but I'm saying despite stalling, if you have
7 brakes, it's like me trying to tell a police
8 officer, "I was going 75 miles an hour in a 55,
9 and I couldn't slow down." Well, I could; I just
10 didn't. So, anyway, I don't want to argue. I'm
11 just saying the stalling is, in my mind, a
12 different issue than braking, because with
13 brakes, you can just stop at a red -- at a
14 grade-level train crossing, you can come to a
15 complete stop, even if you're having some issues
16 with the vehicle.

17 MS. GILL: Right.

18 COMM. JACKSON: Because if a train is
19 coming --

20 MS. GILL: He came to a complete
21 stop, though. That's what --

22 MR. RODRIGUEZ ROGERS: Can I add more
23 to it?

1 COMM. JACKSON: Sure.

2 MR. RODRIGUEZ ROGERS: Sir, they
3 never -- they never had told me that I was going
4 to have a different type of bus for the field
5 trip that day, and I was not informed any
6 information about that. And also, they did
7 switch my monitor. I have -- I had a regular
8 monitor to my school route, so then whenever that
9 happens, I just was -- I just was told to go to
10 the school, and there was a bus out there waiting
11 for me, with a different monitor.

12 One of the issues that I -- was very
13 critical on me at the railroad track is the
14 monitor did blame me about this -- the bus
15 stopping there. But it seems that I did took a
16 training just for, I think, one -- in the one
17 time I did -- they did not train me as much as
18 they should have. I did -- you know, I did try
19 to do everything to start this bus back, but I
20 did call the base.

21 There was another driver that -- that was
22 her first time on a field trip, and then she had
23 said, "Well, I'm a-scared. You guys don't leave

1 me." I said, "Well, just go ahead of me and I'll
2 move behind you." When I call in to the base,
3 she -- she heard me talking to the base that
4 these buses was started. It started on me -- it
5 stopped on me.

6 And then due to my maneuvering same way to
7 get back that bus on -- to start this bus, and
8 then now, I did start the bus and I continued on.
9 Coming back, I did stop at the railroad track, I
10 did stop, but Mr. -- but the manager of that --
11 of First Student, I did not even know that guy
12 would have had like -- had like a calculator.

13 MS. GILL: Okay. Thank you.

14 MR. RODRIGUEZ ROGERS: So, the
15 manager was not respectfully talking to me, just
16 like I -- he tried to insult me through the
17 question, "Don't lie to me." I never really have
18 an encounter with that man like that.

19 So, then that, you know, waking up and
20 then -- like waking up that day, then I got --
21 just got back to the school back there, then I
22 got -- it was just -- I don't have -- I had like
23 about a seven-minute window to just do my pretrip

1 on the bus that I was -- my regular bus, and then
2 this guy hit me right there. And then I was
3 like, "Whoo," you know.

4 So, then now I did not -- I did not deny
5 anything that they -- I did not really say
6 anything that I -- it wouldn't get me to that
7 point here with this guy.

8 CHAIRPERSON SLASH: Thank you.

9 Do you have a question?

10 COMM. HARRINGTON: Yes.

11 In the statement of allegations signed by
12 you, you stated that you deviated on the way back
13 from the standard procedures. What does
14 "deviated" mean? So, you're saying -- and this
15 is your signed statement.

16 MR. RODRIGUEZ ROGERS: Uh-huh.

17 COMM. HARRINGTON: What does that
18 mean?

19 MR. RODRIGUEZ ROGERS: Devi --
20 devi --

21 COMM. HARRINGTON: Deviated.

22 MR. RODRIGUEZ ROGERS: Deviated?

23 COMM. HARRINGTON: Yeah. These are

1 your words.

2 MR. RODRIGUEZ ROGERS: Deviated.

3 COMM. HARRINGTON: Deviated.

4 (Discussion off the record.)

5 MS. GILL: Can you translate in
6 Spanish for him?

7 (Discussion in Spanish.)

8 MR. VARGASS: It's not very clear. I
9 think he said he stopped behind two buses. The
10 only difference was that he chose to stop first
11 and then go, but I'm not following the
12 conversation all of the way either. I was kind
13 of reading my own statement again, so I apologize
14 for that, what he translated. As far as the
15 difference was that he originally stopped, he
16 chose to stop versus maybe just following the
17 buses, and this time he stopped behind the two
18 buses and then went.

19 COMM. HARRINGTON: So, just for
20 clarification, it states that there were buses in
21 front of him, and he stopped behind the buses,
22 and when the other buses went, he proceeded
23 behind them, he did not stop again at the actual

1 crossing?

2 (Discussion in Spanish.)

3 MR. RODRIGUEZ ROGERS: So, he's
4 saying he stopped. So, he did make the -- they
5 went, he initially stopped for him to go.

6 MS. GILL: They went ahead of him.

7 MR. RODRIGUEZ ROGERS: Yes.

8 MS. GILL: So, he -- he was left back
9 is what he's saying, but he did stop at the
10 railroad track.

11 COMM. JACKSON: Well, it sounds like
12 he stopped --

13 MS. CHMIELEWSKI: Can I --

14 COMM. JACKSON: It sounds like --

15 MS. GILL: You're supposed to keep up
16 with your group --

17 COMM. JACKSON: No, no, no.

18 MS. GILL: -- but he -- because of
19 the issues --

20 COMM. JACKSON: Okay. Yeah. Well, I
21 think he did keep up with the group, and then he
22 stopped the one time, and then followed everybody
23 through.

1 MS. GILL: First Student --

2 CHAIRPERSON SLASH: Yes.

3 MS. GILL: First Student would like
4 to respond.

5 MS. CHMIELEWSKI: Correct.

6 I would just like to point out that in an
7 earlier statement by Complainant that the video
8 was not working on the bus, we don't have any
9 records of the video not working. The bus
10 shouldn't have been in operation if that was the
11 case, and when he does the pretrip, basically
12 where you go over your bus and make sure
13 everything is functional and safe to perform the
14 driving capabilities, that was never marked. And
15 also the stalling was never marked at the
16 post-trip, where they review your trip, if they
17 had any issues. That was never indicated.

18 And additionally, we have record of both
19 the monitor and multiple Indianapolis Public
20 School employees saying that he never came to a
21 stop. It was not -- not "he stopped and quickly
22 followed the other buses." He never came to the
23 stop, and that's a direct complaint from our

1 customer, the IPS.

2 CHAIRPERSON SLASH: Thank you.

3 COMM. HARRINGTON: All right.

4 CHAIRPERSON SLASH: Are there any
5 further questions?

6 (No response.)

7 CHAIRPERSON SLASH: Okay. We've
8 spent lots of time in this oral argument. The
9 case was initially -- it was initially assigned
10 to Comm. Harrington.

11 Do you have a recommendation?

12 COMM. HARRINGTON: Yes. I recommend
13 that we remand for the specific clarification on
14 is there or is there not a video on -- relevant
15 to this? And can the statements from whomever
16 was on the bus -- there was a comment made that
17 there was a monitor on the bus. If they are --
18 what was that statement? And then the policy,
19 just getting clarification for the union as far
20 as having someone present when someone is
21 terminated. So, those are my three questions.

22 CHAIRPERSON SLASH: Okay.

23 So, is there a motion to support the

1 recommendation that those specifications from
2 Comm. Harrington?

3 COMM. JACKSON: So moved.

4 CHAIRPERSON SLASH: Is there a
5 second?

6 VICE-CHAIR RAMOS: Second.

7 CHAIRPERSON SLASH: Okay. Motion and
8 seconded. You can call the roll.

9 MR. LOSTUTTER: All right.
10 Comm. Silberberg?

11 COMM. SILBERBERG: Aye.

12 MR. LOSTUTTER: Comm. Harrington?

13 COMM. HARRINGTON: Aye.

14 MR. LOSTUTTER: Comm. Jackson?

15 COMM. JACKSON: Aye.

16 MR. LOSTUTTER: Comm. Tolliver?

17 COMM. TOLLIVER: Aye.

18 MR. LOSTUTTER: Vice-Chair Ramos?

19 VICE-CHAIR RAMOS: Aye.

20 MR. LOSTUTTER: Chair Slash?

21 CHAIRPERSON SLASH: Aye.

22 MR. LOSTUTTER: The ayes have it.

23 CHAIRPERSON SLASH: Okay. Thank you.

1 Thank you so much, and further questions,
2 you can talk to the Docket Clerk at the
3 conclusion of today's hearing.

4 All right. Next we have -- and I really
5 want to pronounce your last name properly.

6 (Discussion off the record.)

7 CHAIRPERSON SLASH: Do you understand
8 what we shared in here?

9 MS. CHMIELEWSKI: Yes, correct.

10 CHAIRPERSON SLASH: Okay. I wanted
11 to make sure.

12 MS. CHMIELEWSKI: Yeah, we did. Do
13 we get a written copy, just to make sure that
14 nothing was cut out or anything like that, in
15 case mine may have cut out?

16 MR. LOSTUTTER: You -- you can
17 request a transcript of the meeting, yes.

18 MS. CHMIELEWSKI: Okay. Okay. Thank
19 you.

20 CHAIRPERSON SLASH: I can verbally
21 tell you we heard you loud and clear.

22 MS. CHMIELEWSKI: Okay. Okay.
23 Perfect. Thank you.

1 CHAIRPERSON SLASH: Okay.

2 And our next case, I want to make sure
3 that I pronounce your last name. Can you say
4 your last name for me?

5 MR. NWACHUKWU: Nwachukwu.

6 CHAIRPERSON SLASH: Nwachukwu?

7 MR. NWACHUKWU: Yes.

8 CHAIRPERSON SLASH: Okay. Thank you.

9 MR. NWACHUKWU: You're welcome.

10 CHAIRPERSON SLASH: This case is the
11 case of Augustus Nwachukwu --

12 MR. NWACHUKWU: Yes. N is silent.

13 CHAIRPERSON SLASH: Okay. Thank you.

14 MR. NWACHUKWU: Yeah.

15 CHAIRPERSON SLASH: -- versus Indiana
16 Department of Environment management. That's
17 Case EMno24060569, and for this case, you will
18 have five minutes to share with us.

19 Is the Respondent present as well?

20 MR. BROWN: I am.

21 MR. LOSTUTTER: Yes.

22 CHAIRPERSON SLASH: Okay. Then you
23 will have five minutes. If either of you would

1 like to reserve any of that time, please let me
2 know, or just stop and I'll add it to your time.

3 And then you'll have two minutes for
4 rebuttal; okay? You may begin.

5 MR. NWACHUKWU: In February 2024 I
6 was about to retire, and I was just -- I was just
7 about to, but it was at that time I looked at my
8 work history, and I said, "Well, I'm missing like
9 one year working with the state. I need to make
10 it up," you know. So, I decided to look for a
11 job with the Indiana Environmental Services.

12 And they interviewed me, they hired me,
13 and I started working with them, just a few
14 more -- one more year. Then my manager at that
15 time was Jennifer Allen. She did all of the
16 evaluations. She didn't say anything was wrong
17 with my work. She was impressed with my work.

18 And there -- later on, there was a new
19 work that she assigned to me. She sent somebody
20 to train me. I was doing the job as a -- she
21 didn't get -- she didn't complain anything was
22 wrong with me or with what I was doing. Then
23 suddenly she came one day and said, "Well, it

1 looks like you're going to need additional Excel
2 training."

3 I said, "I already had Excel training. If
4 you look at my training log, you can see my Excel
5 training there for last year." There wasn't any
6 reason for me to have Excel training. She said,
7 "Well, you need it for the job." I said, "Okay."
8 I did the Excel training. I was doing what I
9 have done before.

10 Then the job I was doing, I think
11 June 17th, she called me to her office and said,
12 "Well, I don't think you were doing this job. I
13 don't think you -- I don't believe you will be
14 able to do it."

15 I asked her, "Why?" She said, "Well,
16 that's my belief." I said, "I have worked as an
17 accountant with different offices in Indiana,
18 worked as contractor at the State of Indiana. At
19 some point I was a manager with the State of
20 Indiana as an accountant. There is not any other
21 reason you believe that I would not be able to do
22 that job." She said -- well, she had said what
23 she said, and she went on and relieved me of my

1 position.

2 So, I was wondering why she did it. Was
3 it because I was retired from management, like
4 because I was the only man in the area? I
5 couldn't understand why she did what she did,
6 because I know I was doing my job. No prior
7 warning, nothing like that.

8 CHAIRPERSON SLASH: Thank you.

9 MR. NWACHUKWU: You're welcome.

10 CHAIRPERSON SLASH: How much time
11 does he have?

12 MR. LOSTUTTER: He has a minute 40.

13 CHAIRPERSON SLASH: Thank you.

14 You'll have a minute and 40 to add to your
15 rebuttal time.

16 MR. NWACHUKWU: Okay.

17 MR. BROWN: I think I chose a bad
18 spot to sit for this.

19 CHAIRPERSON SLASH: Oh, that's okay,
20 because she can hear you directly.

21 MR. BROWN: Good, good.

22 CHAIRPERSON SLASH: Yes.

23 MR. BROWN: Well, thank you,

1 Commissioners, for allowing us here today. My
2 name is Matthew Brown, and I'm an attorney
3 representing the Indiana Department of
4 Environmental Management today. IDEM's a state
5 agency that, as you can imagine, holds many
6 important accounting functions, whether it be
7 grants, federal funding, state funding. We've
8 got to get it right as the government.

9 And last year, in April of '24, the
10 Complainant was hired by Jennifer Allen, a
11 supervisor in the accounting team. She hired the
12 Complainant as well as a different employee at
13 the exact same time who started on April 1st.
14 She put both through the exact same training,
15 except only one of them was really getting it;
16 right? One of them was able to work through
17 Excel and understand the job, and the functions
18 of the job needed to achieve the outcomes they
19 set.

20 Well, the Complainant wasn't up to par
21 with the other employee. She wasn't -- he wasn't
22 meeting Jennifer Allen, the supervisor's
23 expectations. So, she put him through a lot more

1 training. The records that were provided the
2 investigator in this case, along with the
3 conversations the investigator was able to have,
4 showed that the supervisor, Jennifer Allen, did
5 everything she possibly could to develop the
6 missing skill set that the Complainant had to be
7 able to do the job.

8 In this role as a Grant Analyst, you've
9 got to be able to analyze budgets, analyze funds,
10 look at the flow, advise management on where it's
11 going, how much you have left, things for which
12 some rudimentary Excel skills and other
13 technology-related skills are critical. So, the
14 Complainant was put through all of that training
15 repeatedly, multiple times, above and beyond
16 which she was able to give or needed to give to
17 the other employee that she hired.

18 But two and a half months into the job,
19 the supervisor realized that no matter what other
20 training that she provided to the Complainant:
21 The one-on-one training, the computer-based
22 training, anything, it was not going to build up
23 his proficiency enough to perform the work needed

1 in this Grant Analyst job. So, she made the
2 decision, as a lot of managers do in your first
3 90 days, that "This is not a position for which
4 your skill set matched."

5 And so, she made the decision at that
6 point to separate employment with the
7 Complainant. Notably, the other employee, who
8 was hired at the same time and picked up on the
9 work and was able to do it, is still employed in
10 the same capacity. Ms. Allen has moved on to a
11 different opportunity, but that complainant is
12 still in the job performing.

13 The record of the investigation shows, at
14 least from IDEM's perspective, that the only
15 evidence brought forth by the Complainant of
16 discrimination is just the simple fact that he's
17 of a different race, national origin and sex of
18 the supervisor, and of another employee that
19 didn't fail to meet their expectations. That's
20 just not evidence of discrimination. That is a
21 subjective belief that he could do the job that
22 someone else did not think he could.

23 So, I believe, and IDEM's position is,

1 there is no other evidence in this case that
2 would support the decision of discrimination, and
3 we would respectfully ask that the investigator's
4 finding of no probable cause be affirmed.

5 CHAIRPERSON SLASH: Thank you.

6 MR. BROWN: I'm happy to answer
7 questions.

8 CHAIRPERSON SLASH: Thank you.

9 You have three minutes and 40 seconds to
10 rebut.

11 MR. NWACHUKWU: You were talking
12 about Bradley. We were hired on at the same
13 time. To my surprise, she was secretly training
14 him without my knowledge. When she was supposed
15 to train both of us, she was closing the --
16 training her. When I asked her, "Why is she
17 being trained without me?" she didn't answer that
18 question.

19 I've worked as accountant, as I said, with
20 the different offices in Indiana. I have used
21 Excel. There is no reason I could not do that
22 job. I have my degree almost to 20 years ago. I
23 have worked as accountant, both as a manager with

1 the DNR office, and as an auditor with the
2 Workforce Development. I also worked as a
3 contractor with the Indiana -- the Indiana
4 Institute, at their field office.

5 So, there is no reason she thought I could
6 not do that job. Because I have 90 days
7 probationary period doesn't mean she can just get
8 rid of me without showing a poor performance,
9 without anything. It's not the way it's done. I
10 was a manager. I didn't do any of my employees
11 like that.

12 CHAIRPERSON SLASH: Thank you.

13 MR. BROWN: Briefly.

14 So, IDEM -- and I think the Complainant's
15 asking you to believe that Jennifer Allen hired
16 him in April; based on his resume, right, and the
17 interview, that they thought he could do this
18 job; but then two and a half months later now
19 after hiring him, because of his race, national
20 origin and sex, she now wanted to fire him. I
21 just -- I don't think that's a plausible
22 scenario.

23 I think that, as the investigator found,

1 the facts show that Jennifer thought he could do
2 the job based on his experience and based on the
3 interview. But every job's different; right?
4 And once you get into the world and you start
5 training, you start looking at it, our
6 preconceived notions of whether someone's
7 experience qualifies him for the role can
8 sometimes be thrown out the window, because the
9 actual experience that we have shows otherwise.

10 And I think that's all I need to say. I
11 don't need to expand on that any further.

12 CHAIRPERSON SLASH: Thank you.

13 Commissioners, do you have any questions?

14 (No response.)

15 CHAIRPERSON SLASH: Then I'll look
16 up. Comm. Silberberg, you're shaking your head.

17 COMM. SILBERBERG: Right, no
18 questions.

19 CHAIRPERSON SLASH: Okay. Having no
20 questions in the room, I don't think,
21 Comm. Silberberg, this one was assigned to you
22 initially. Do you have a recommendation? Okay.

23 COMM. SILBERBERG: I -- yes. I

1 recommend that we uphold the findings of no
2 probable cause on both -- both issues.

3 CHAIRPERSON SLASH: Okay. Thank you.

4 Is there a motion?

5 COMM. TOLLIVER: So moved.

6 CHAIRPERSON SLASH: Is there a
7 second?

8 VICE-CHAIR RAMOS: So moved.

9 CHAIRPERSON SLASH: Okay. We have a
10 motion and a second.

11 MR. LOSTUTTER: All right. We'll
12 call the role.

13 Comm. Silberberg?

14 COMM. SILBERBERG: Aye.

15 MR. LOSTUTTER: Comm. Harrington?

16 COMM. HARRINGTON: Aye.

17 MR. LOSTUTTER: Comm. Jackson?

18 COMM. JACKSON: Aye.

19 MR. LOSTUTTER: Comm. Tolliver?

20 COMM. TOLLIVER: Aye.

21 MR. LOSTUTTER: Vice-Chair Ramos?

22 VICE-CHAIR RAMOS: Aye.

23 MR. LOSTUTTER: Chair Slash?

1 CHAIRPERSON SLASH: Aye.

2 MR. LOSTUTTER: The ayes have it.

3 CHAIRPERSON SLASH: Thank you.

4 And any questions that you have, you can
5 talk to our Docket Clerk at the conclusion.

6 The next case, Christine Busanelli versus
7 Centennial Estates Association, Inc. & 1st
8 American Management Company, Inc.,
9 Case HOha25030152. This case was assigned to
10 Vice-Chair Ramos.

11 VICE-CHAIR RAMOS: And Madam Chair, I
12 request additional time to further review this
13 case. I'm just getting back from two weeks
14 abroad, and I had limited access to the Internet
15 to be able to fully research this or review this.
16 So, I request additional time to present this in
17 December.

18 CHAIRPERSON SLASH: Okay.

19 We don't have a mo -- we don't have to
20 make a motion on that, I don't believe. We will
21 continue that until next month.

22 Okay. The next one, Alex Kalok --
23 Kalokula versus KYB Americas Corporation,

1 Case EMno24111078.

2 Comm. Jackson, do you have a
3 recommendation?

4 COMM. JACKSON: Uphold the Director's
5 findings of no probable cause on both issues.

6 CHAIRPERSON SLASH: Okay.

7 Is there a motion?

8 COMM. TOLLIVER: So moved.

9 CHAIRPERSON SLASH: Is there a
10 second?

11 COMM. HARRINGTON: Second.

12 CHAIRPERSON SLASH: Okay.

13 MR. LOSTUTTER: All right. We will
14 call the roll.

15 Comm. Silberberg?

16 COMM. SILBERBERG: Aye.

17 MR. LOSTUTTER: Comm. Harrington?

18 COMM. HARRINGTON: Aye.

19 MR. LOSTUTTER: Comm. Jackson?

20 COMM. JACKSON: Aye.

21 MR. LOSTUTTER: Comm. Tolliver?

22 COMM. TOLLIVER: Aye.

23 MR. LOSTUTTER: Vice-Chair Ramos?

1 VICE-CHAIR RAMOS: Aye.

2 MR. LOSTUTTER: Chair Slash?

3 CHAIRPERSON SLASH: Aye.

4 MR. LOSTUTTER: The ayes have it.

5 CHAIRPERSON SLASH: Thank you.

6 That concludes our Old Business. In New
7 Business we have one case to assign. I'll assign
8 it to myself, Royce Quadros versus Purdue
9 University, Case EDha25010048. They're also
10 requesting an oral argument, so we can expect
11 that to be our one next month plus the additional
12 that we just continued.

13 And then the next case is our ALJ
14 Decision. The Administrative Law Judge's order
15 disposing of the proceeding becomes a final order
16 when affirmed. So, Shannon Black versus Park
17 Hospitality, LLC d/b/a Best Western Plus
18 Northwest, Case EMha23050495.

19 The Administrative Law Judge in this
20 matter has found the Respondent in default and
21 must pay the Complainant a total of ten thousand
22 three hundred sixty-one dollars and fifty
23 cents -- or fifty cents -- in damages. The

1 Respondent is ordered to cease and desist from
2 discriminating against people because of
3 disability in the protected area of employment
4 and taking steps to make sure that it does not
5 happen again.

6 The Complainant has filed an objection and
7 Request for Modification to this decision by the
8 ALJ. The Respondent has filed a Notice of
9 Inability to Comply with the order issued by the
10 ALJ. The oral argument is scheduled for today.

11 Do we have both parties present?

12 MR. LOSTUTTER: We have -- I believe
13 we do. For the Commission and the aggrieved
14 person, Attorney Fred Bremer, and then for the
15 Respondent?

16 MR. TSCHANZ: Peter Tschanz,
17 T s c h a n z, for the Respondent.

18 CHAIRPERSON SLASH: Thank you. Okay.

19 MR. LOSTUTTER: We will begin with
20 Mr. Bremer.

21 MR. BREMER: Chair Slash,
22 Commissioners, thank you for the opportunity to
23 present the objections in order to have this

1 recommended order modified for more money than
2 was awarded.

3 It was money awarded as a pay differential
4 in this case according to the recommendation, but
5 the recommendation declined to allow any monetary
6 amount for the loss of these points that a person
7 like the Complainant could earn as a bright
8 auditor for selling of what they call loyalty
9 programs to the patrons of the Park Hospitality
10 hotels.

11 She was very clear in her testimony that
12 she had accumulated a number of points. The
13 amount was 427,400 points. She was very clear
14 that these were available for her to use to stay
15 at no charge at the hotels, and the amount that
16 we're talking about, you'd have to have 16,000 of
17 these points in order -- at a minimum -- in order
18 to be able to stay absolutely free at one of
19 these places for a night.

20 The Administrative Law Judge said that
21 there was -- it was too speculative, but she
22 testified under oath what -- the total amount
23 that she had accumulated, the exact amount, and

1 she was very clear that she was expected to be
2 able to not only have earned those up to the time
3 she was terminated, and this termination, I
4 remind you, was determined -- has been determined
5 to be discriminatory on the basis of disability.
6 So, that's already a given, because it's a
7 default case.

8 So, she also said that she would -- had
9 every reason to expect to accumulate points at
10 the same rate had she been able to stay beyond
11 her date of termination up to the date that there
12 was a hearing on damages, once the default was
13 granted. This is going to come down to, from
14 what the Administrative Law Judge has -- has
15 ruled, that she would get either something or
16 nothing.

17 So, clearly she had losses that could be
18 translated into money. Staying at these places
19 free, there was enough -- at 16,000 points a
20 night, there was enough for 36 nights, and that's
21 where we came up in our objections with the
22 amount that should have been allowed to her, the
23 additional amount, the 10,391. We're asking that

1 this be modified to reflect what her actual
2 monetary exposure was because of this act of
3 discrimination, determined to be a matter of
4 default.

5 CHAIRPERSON SLASH: Do you have any
6 back -- oh, I can ask -- I can ask the question
7 later. Thank you.

8 MR. TSCHANZ: Thank you. Peter
9 Tschanz, on behalf of Respondent.

10 Respondent respectfully requests that the
11 ALJ's award be affirmed. The ALJ made the
12 decision that Ms. Black's, the Complainant's,
13 calculation of these points was speculative and
14 not supported on anything other than her own
15 subjective testimony.

16 And with Respondent being in default,
17 Respondent is not allowed to present arguments on
18 this point, but just for the record, the way that
19 the point system works, 64,000 points, as part of
20 this employee benefit, or incentive program, will
21 yield a \$200 gift card.

22 Ultimately, I believe Ms. Black was
23 alleging that she would have earned five

1 thousand -- or excuse me -- five hundred
2 thousand, seventy-eight thousand two hundred and
3 twenty points. So, ultimately, doing the math,
4 which, again, was not presented to the ALJ, but
5 she made her determination based on the lack of
6 evidence that was provided by Ms. Black, she
7 would only by her calculation, would only come up
8 with \$1,806.94, and these benefits are employee
9 incentive points.

10 So, ultimately, the ALJ, Respondent
11 believes, got it correct, because there's nothing
12 to support her claim for these points. It's very
13 subjective. She offered no hard written evidence
14 to back up the fact that she would even still be
15 earning these points up to the date of the
16 termination.

17 And I believe during the hearing, the ALJ
18 even pointed out that it's such a day-by-day
19 occurrence when these guests come in and you try
20 to sell them on this program that Best Western
21 has, it's impossible to determine, you know, how
22 many guests are going to come in on this
23 particular day and how many you're going to be

1 able to sell.

2 You know, so, really it's -- Respondent
3 acknowledges the fact that there is an award
4 for \$10,361.50. Respondent's in default,
5 Respondent isn't allowed to present evidence on
6 that front, on liability or damages, but when it
7 comes to the award for points beyond that, we
8 respectfully ask the Commission to affirm the
9 ALJ's decision.

10 CHAIRPERSON SLASH: Thank you.

11 MR. BREMER: What we have here is
12 testimony under oath. She was keeping track of
13 her points, and she was certainly competent to
14 testify as to what she had accumulated, with or
15 without documentation. And she was -- this was
16 the number of points she'd accumulated up to the
17 date of termination, 427,400 points, was for 85
18 days -- 85 weeks of employment. So, in carrying
19 that forward, another number of weeks passed
20 after that. It's just simply taking the
21 trajectory out a little bit further as up to the
22 date that the damages hearing occurred, and she
23 would have had more points and more free nights

1 at 16,000 points a night.

2 CHAIRPERSON SLASH: Thank you.

3 Do you have anything further that you wish
4 to share?

5 MR. TSCHANZ: No, no, thank you.

6 CHAIRPERSON SLASH: Okay. Thank you.

7 Commissioners, do you have any questions?

8 Yes.

9 VICE-CHAIR RAMOS: So, there's no
10 question that those 427,000 points outstanding --
11 is that at least a point that both sides agree
12 on, this 427,000? It could be more, depending on
13 which way you look at it, but are you in dispute
14 that there are 427,000 points?

15 MR. TSCHANZ: Yes. I have not seen
16 evidence that there are 427,000 points, and quite
17 frankly -- and I understand the rules that govern
18 Respondent's ability to assert arguments when
19 they're in default. We were not able to bring
20 any evidence to that hearing. I have seen no
21 evidence to support that there is 427,000 points,
22 much less the 500,000 figure that she ultimately
23 arrived at by accelerating that point-earning

1 process to the date of the termination.

2 COMM. JACKSON: So, what does 500,000
3 points equate to in money?

4 MR. TSCHANZ: Well, 500,000 points
5 will -- the way that it breaks down at the
6 time -- I don't know what it is with Best Western
7 presently -- 64,000 points will get a \$200 gift
8 card, and I assume, then, that that gift card can
9 be applied to hotel stays. So, the math that I
10 just provided, essentially if she had the 500,000
11 points, would only net under \$2,000. So, by her
12 own math, it doesn't add up to the reality of how
13 these points were earned and how they were paid
14 out.

15 COMM. JACKSON: So, what is she
16 asking for, more money or the points or --

17 MR. TSCHANZ: Compensation for the
18 points.

19 COMM. JACKSON: Which would be
20 under \$2,000; is that --

21 MR. TSCHANZ: If -- if that number is
22 even accurate.

23 COMM. JACKSON: Yeah.

1 MR. TSCHANZ: You know, taking her
2 number as true, it would be under \$2,000 by my
3 client's --

4 COMM. JACKSON: But she won nearly
5 11,000 in the suit?

6 MR. TSCHANZ: Ten thousand three
7 hundred sixty-one dollars and fifty cents.

8 COMM. JACKSON: That she didn't have
9 before?

10 MR. TSCHANZ: Correct.

11 CHAIRPERSON SLASH: Mr. Bremer, what
12 is the actual number of points that she is asking
13 for?

14 MR. BREMER: Well, up to the date of
15 the termination was -- that's the one figure
16 we've been tossing around.

17 CHAIRPERSON SLASH: Okay.

18 COMM. JACKSON: Do you have that --

19 CHAIRPERSON SLASH: The modifi --
20 well, that's the question I'm asking more is the
21 modification number. Where is she asking --

22 MR. BREMER: Oh, the modification?

23 CHAIRPERSON SLASH: -- that be

1 modified to?

2 MR. BREMER: Yeah. The modification
3 that we are seeking would result in there being
4 an addition of \$4,548.60.

5 COMM. JACKSON: And you're basing
6 that on what? What are you basing it on?

7 MR. BREMER: That's based on
8 the \$16,000 a night points, for a free night.
9 She had five hundred and -- or she testified that
10 she would have had five hundred and seventy -- or
11 she testified that up to the date of the
12 termination, she had accumulated the 4,000 --
13 427,400 points.

14 And beyond that, she would have had -- if
15 the trajectory was a good sign of how it would go
16 had she stayed on until the date of the damages
17 hearing, she would have had additional points
18 that when -- all of those could be used at 16,000
19 points for each free night's stay at the hotel.

20 COMM. JACKSON: So, you have that
21 document that shows she accumulated that many
22 points?

23 MR. BREMER: I don't have a document,

1 no.

2 COMM. JACKSON: She just said --

3 CHAIRPERSON SLASH: It's sworn
4 testimony.

5 COMM. JACKSON: It's just sworn
6 testimony that she had those points?

7 MR. BREMER: Sworn testimony.

8 COMM. JACKSON: Did she produce any
9 evidence on a screen or a paper or anything that
10 she had --

11 MR. BREMER: No, no, she did not.

12 COMM. JACKSON: Because -- and I earn
13 points in a lot of different ways, and it's
14 always a running total where I can show you on my
15 phone or I can print it out of how many points I
16 have.

17 MR. BREMER: It was a default, and
18 she testified to what she knew about the points,
19 and that's what she did under oath.

20 COMM. TOLLIVER: It was unopposed?

21 COMM. JACKSON: And what?

22 CHAIRPERSON SLASH: Huh?

23 COMM. TOLLIVER: It was unopposed?

1 Is that what you said?

2 MR. BREMER: That's --

3 COMM. TOLLIVER: Since it was a
4 default, it was unopposed, so you accept it as
5 true?

6 MR. BREMER: That's true.

7 COMM. TOLLIVER: Okay.

8 COMM. HARRINGTON: So, can I -- a
9 clarification. This is a little different than
10 when you stay -- and I just want to make sure.
11 This is an employee incentive toward points, not
12 somebody physically actually staying; correct?

13 MR. BREMER: Well, the points have to
14 be used a certain way.

15 COMM. HARRINGTON: No, I'm saying how
16 does she earn the points? It's not based on a
17 stay? Isn't it based as part of her --

18 MR. BREMER: Based on her selling
19 what they call loyalty programs --

20 COMM. HARRINGTON: That's what I
21 wanted, to make sure --

22 MR. BREMER: -- to patrons --

23 COMM. HARRINGTON: -- what you said.

1 MR. BREMER: -- of the hotel.

2 (Discussion off the record.)

3 CHAIRPERSON SLASH: Okay.

4 Commissioners, do you have any further questions?

5 (No response.)

6 CHAIRPERSON SLASH: Okay. Is there
7 anyone who has a recommendation?

8 COMM. JACKSON: I recommend to affirm
9 what's already here.

10 CHAIRPERSON SLASH: The ALJ's
11 finding?

12 COMM. JACKSON: Yeah.

13 CHAIRPERSON SLASH: Is there a -- is
14 there a motion to that?

15 VICE-CHAIR RAMOS: I think he made a
16 motion. Wasn't that a motion?

17 CHAIRPERSON SLASH: He was making a
18 recommendation.

19 VICE-CHAIR RAMOS: Oh. I'll make the
20 motion.

21 CHAIRPERSON SLASH: Okay. And I'll
22 second it.

23 MR. LOSTUTTER: Okay. We will call

1 roll.

2 Comm. Silberberg?

3 COMM. SILBERBERG: Aye.

4 MR. LOSTUTTER: Comm. Harrington?

5 COMM. HARRINGTON: Aye.

6 MR. LOSTUTTER: Comm. Jackson?

7 COMM. JACKSON: Aye.

8 MR. LOSTUTTER: Comm. Tolliver?

9 COMM. TOLLIVER: Aye.

10 MR. LOSTUTTER: Vice-Chair Ramos?

11 VICE-CHAIR RAMOS: Aye.

12 MR. LOSTUTTER: Chair Slash?

13 CHAIRPERSON SLASH: Aye.

14 MR. LOSTUTTER: The ayes have it, six

15 to nothing.

16 CHAIRPERSON SLASH: Okay. Any

17 further questions you can take up with our Docket

18 Clerk.

19 That concludes that section of our

20 meeting. We have no ALJ Decisions that were

21 automatically confirmed. Our next question is:

22 Are we all okay for December 15th?

23 COMM. TOLLIVER: I'm not.

1 CHAIRPERSON SLASH: We have one down.

2 COMM. HARRINGTON: I'm good.

3 CHAIRPERSON SLASH: Oh, is that
4 Monday? Yeah, it's a Monday.

5 COMM. HARRINGTON: I'm good. I just
6 moved a meeting.

7 CHAIRPERSON SLASH: Okay. Great.

8 Comm. Silberberg, are you okay with
9 December 15th? All right.

10 COMM. SILBERBERG: Yes.

11 CHAIRPERSON SLASH: Okay. Being one
12 down, I think that that means we're okay. So, we
13 will keep December 15th. I don't see any
14 Elections, Training or Other that we have here
15 today. Are there any announcements?

16 (Discussion off the record.)

17 CHAIRPERSON SLASH: Is there anyone
18 here for public comment?

19 MR. LOSTUTTER: I do not believe so.

20 CHAIRPERSON SLASH: Okay. Thank you.

21 With that being said, it is 2:29 p.m. on
22 November 24th. Have a very happy Thanksgiving.
23 Please make sure that you get any of your

1 questions answered on your way out, and we'll be
2 back next month.

3 This meeting's adjourned.

4 - - -
5 Thereupon, the proceedings of
6 November 24, 2025 were concluded
7 at 2:29 o'clock p.m.
8 - - -

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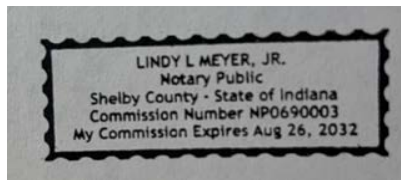
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1 CERTIFICATE

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 Monday, November 24, 2025 in this matter and
8 transcribed by me.



Lindy L. Meyer, Jr.

Lindy L. Meyer, Jr.,
Notary Public in and
for the State of Indiana.

14

15 My Commission expires August 26, 2032.

16 Commission No. NP0690003

17

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