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BEFORE THE STATE OF INDIANA

CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF OCTOBER 18, 2019

ORIGINAL

- - -

PROCEEDINGS

in the above-captioned matter, before the Indiana
Civil Rights Commission, Steven A. Ramos,
Chairman, taken before me, Lindy L. Meyer, Jr., a
Notary Public in and for the State of Indiana,
County of Shelby, at the Indiana Government
Center North, 100 North Senate Avenue, Room N300,
Indianapolis, Indiana, on Friday, October 18,
2019 at 1:15 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 Steven A. Ramos, Chairman
4 Adrienne L. Slash
5 Holli Harrington
6 Alpha Blackburn (via telephone)
7 James W. Jackson (via telephone)

8 INDIANA CIVIL RIGHTS COMMISSION
9 By Doneisha Posey, 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 Michael C. Healy
17 Dustin Dyer
18 Anehita Eromosele

19 ALSO PRESENT:

20 Joseph C. Pettygrove
21 Rob Hicks
22 Yufen He
23 Terry Lymon
Cynthia Hahn, Interpreter (via telephone)
Develan Bland

- - -

1 1:15 o'clock p.m.
2 October 18, 2019

3 - - -

4 CHAIRMAN RAMOS: I call to order the
5 public meeting of the Indiana Civil Rights
6 Commission. It is October 18th, 2019, and my
7 watch says 1:15 in the afternoon. Following the
8 agenda, we do have a quorum, and I'd like the
9 announcement of the agenda, Judge Ryker.

10 JUDGE STEPHENS RYKER: Okay. So, we
11 have the approval of previous meeting minutes,
12 and those are in the binders for you. The ICRC's
13 Director Report, which we'll need to move further
14 down the agenda, as Doneisha Posey, your Deputy
15 Director, is running late. There is a number of
16 Old Business issues, the first of which are seven
17 appeals that need to be reported back by the
18 Commissioners.

19 There are some New Business issues as
20 well. One is the appointment of the
21 Commissioners to appeals made of the Director's
22 findings. There are also a few ALJ decisions and
23 orders for the Commission's review was well.
There are three on the agenda, one of which was a

1 matter also on the agenda at the last Commission
2 meeting, and another which is Lymon versus UAW
3 Local Union, which is on the agenda for oral
4 arguments.

5 We do have some meetings dates for 2019 to
6 finish out the year. There is a period for
7 announcements as well as public comment, and then
8 time permitting, the State of Indiana requires
9 ethics trainings for every commission every few
10 years -- or two years, so if there is enough
11 time, that training takes about twenty minutes.
12 We can do that as well at the end of today's
13 meeting.

14 And I apologize; I do have a bit of a
15 cold.

16 CHAIRMAN RAMOS: Thank you. Thank
17 you, Judge Ryker. Are we okay with the sound
18 system? Do we need to do any tests on that?

19 JUDGE STEPHENS RYKER: Not at this
20 time. I was not able to call on the conference
21 call line on the phone here, but the
22 Commissioners are on the other phone, and when
23 the time for using the interpreter comes, we can

1 call in on the wireless speaker phone.

2 CHAIRMAN RAMOS: Okay. Thank you.

3 The next item on the agenda is the
4 approval of the previous minutes. I need a
5 motion to approve.

6 COMM. SLASH: So moved.

7 CHAIRMAN RAMOS: I need a second.

8 COMM. HARRINGTON: Second.

9 CHAIRMAN RAMOS: All those signify by
10 saying aye. We'll have to do it individually, of
11 course.

12 COMM. JACKSON: Aye.

13 CHAIRMAN RAMOS: Thank you,
14 Comm. Jackson.

15 Comm. Blackburn?

16 (No response.)

17 CHAIRMAN RAMOS: Comm. Blackburn?

18 COMM. BLACKBURN: Aye.

19 CHAIRMAN RAMOS: Comm. Harrington?

20 COMM. HARRINGTON: Aye.

21 CHAIRMAN RAMOS: Comm. Slash.

22 COMM. SLASH: Aye.

23 CHAIRMAN RAMOS: Aye. The motion

1 passes.

2 Okay. You might want to go on mute,
3 Commissioners, because we're getting a lot of
4 background noise, until called upon.

5 We have the ICRC Director's Report. We're
6 going to move that later in the agenda since the
7 Executive -- the Assistant Director is not here.
8 That takes us to Old Business, and we have seven
9 elements of Old Business. The first one on the
10 agenda is Carleana Barnes versus McDonald's
11 Store. I had that case, and in this case I
12 recommend to uphold the Director's findings of no
13 probable cause.

14 (Ms. Posey entered the room.)

15 CHAIRMAN RAMOS: I need a motion to
16 approve.

17 COMM. SLASH: So moved.

18 CHAIRMAN RAMOS: I need a second.

19 COMM. HARRINGTON: Second.

20 CHAIRMAN RAMOS: And I need approval
21 of -- motions of an aye or a nay.

22 Comm. Slash?

23 COMM. SLASH: Aye.

1 CHAIRMAN RAMOS: Comm. Harrington?

2 COMM. HARRINGTON: Aye.

3 CHAIRMAN RAMOS: Comm. Jackson?

4 COMM. JACKSON: Aye.

5 CHAIRMAN RAMOS: Comm. Blackburn?

6 COMM. BLACKBURN: Aye.

7 CHAIRMAN RAMOS: And aye as well.

8 The motion is approved.

9 The next case is Comm. Slash.

10 COMM. SLASH: Oh, in the case of
11 Develan Bland versus Ortho Indy Urgent Care, I'd
12 like to uphold the Deputy Director's finding of
13 no probable cause.

14 CHAIRMAN RAMOS: I need a motion to
15 approve.

16 COMM. HARRINGTON: So moved.

17 CHAIRMAN RAMOS: I need a second.

18 COMM. BLACKBURN: Second.

19 CHAIRMAN RAMOS: All those in favor,
20 signify by saying aye individually.

21 Comm. Harrington?

22 COMM. HARRINGTON: Aye.

23 CHAIRMAN RAMOS: Comm. Jackson?

1 COMM. JACKSON: Aye.

2 CHAIRMAN RAMOS: Comm. Blackburn?

3 COMM. BLACKBURN: Aye.

4 CHAIRMAN RAMOS: Comm. Slash.

5 COMM. SLASH: Aye.

6 CHAIRMAN RAMOS: And aye. Motion
7 approves.

8 MS. BLAND: Excuse me; what's that
9 mean?

10 CHAIRMAN RAMOS: That means that in
11 this particular case, the Director found in favor
12 of -- or to uphold the decision of the Deputy
13 Director of no probable cause.

14 MS. BLAND: So, he's saying it went
15 in their favor?

16 CHAIRMAN RAMOS: It is -- it is --
17 you would have to go through the case
18 specifically, and in this case, it says no
19 probable cause, so it would be in the
20 Respondent's favor of no probable cause.

21 MS. BLAND: Okay. So, did you get
22 the record -- did you get the tape?

23 CHAIRMAN RAMOS: This is in --

1 MS. BLAND: Why didn't you get the
2 camera? The camera will tell the truth. So, how
3 can you -- how can it go in their favor when you
4 didn't get the camera? That don't make sense.

5 CHAIRMAN RAMOS: So, I did not review
6 the case.

7 MS. BLAND: That's what I was seeing
8 of why didn't you get the camera? You can't just
9 vote that in their favor when you didn't get the
10 camera? Everything is on camera, and the camera
11 would, you know, explain itself.

12 COMM. SLASH: We have --

13 MS. BLAND: I'm telling the truth.
14 They had no right to turn this away.

15 COMM. SLASH: We have time for public
16 comment at the end, and this --

17 MS. BLAND: Well, I didn't know -- I
18 ain't never been in this kind of meeting before,
19 and when I heard you say "Ortho Indy," I wanted
20 to know what you mean by that, because how can
21 they go in their favor when -- when it's on
22 camera?

23 CHAIRMAN RAMOS: All of --

1 MS. BLAND: You've got to get the
2 camera.

3 CHAIRMAN RAMOS: In these -- there is
4 a process and a procedure for providing all of
5 the evidence that needs to be supported and given
6 to the Commission, and there are time lines that
7 are associated with that. And so, if you
8 provided that information to them, then they
9 would have reviewed that information. If you --
10 if you did not, then it would be outside of --

11 MS. BLAND: I already told you. It's
12 on paper, sir. I gave you that, told you to get
13 the camera. That's up to her to get the camera
14 since she was investigating it. That's wrong.
15 How can it go in their favor? That's wrong.
16 That's wrong.

17 CHAIRMAN RAMOS: Comm. Slash?

18 COMM. SLASH: I'm not the
19 investigator. All I can use is the information
20 that is provided from the investigator, from
21 those --

22 MS. BLAND: It's in my records
23 telling you to get the --

1 COMM. SLASH: I only have is all of
2 the things that were provided to me, and based on
3 everything provided to me, I decided to uphold
4 the Director -- the Deputy Director's finding of
5 no probable cause.

6 CHAIRMAN RAMOS: And we can reveal
7 that after the case. You can have a discussion
8 with the Executive Director, but again, with the
9 information that we have and that which is
10 provided --

11 MS. BLAND: It's on my papers,
12 though, sir. I provided you with all of that.

13 CHAIRMAN RAMOS: You provided the
14 comments, you didn't provide --

15 MS. BLAND: No, I didn't provide you
16 the camera, because that's up to them to give
17 you -- like she said, she was going to do the
18 footage, so she should have asked for the
19 footage. I don't understand how you can put that
20 in their favor when you didn't get the footage.
21 That don't sit well with me, because I know I'm
22 telling the truth, and it shouldn't go in their
23 favor. If I'm seeing you upholding it, that

1 means you ought to open -- investigate this a
2 little more, because you didn't handle this
3 properly.

4 CHAIRMAN RAMOS: And she identified
5 that she cannot investigate, and we review the
6 information that we have.

7 MS. BLAND: So, it's over?

8 CHAIRMAN RAMOS: So, in this case,
9 you can file your process with them, and we can
10 ask to have it reopened and we can review that,
11 but this is --

12 MS. BLAND: What, file with you all
13 again?

14 CHAIRMAN RAMOS: You have to follow
15 the steps of the process, and you can request to
16 have it reopened, but at this point, this is
17 upheld, the situation of no probable cause. Any
18 information that has to be provided must be
19 provided to the Commission in the time lines they
20 provide. After the fact, you have a Respondent
21 and you have the Complainant, and both would have
22 to approve to reopen that case, so --

23 MS. BLAND: Yeah, but it's up to

1 you -- it's up to you to get the tape, because
2 you're the main person. You should have got the
3 tape, plus I told everything to the people, the
4 lady who first got my case, the second lady, the
5 third lady, now you, and it's all on paper
6 telling to you all to get the camera. The
7 footage would tell the truth, and the truth will
8 set you free. Now, it shouldn't have went in
9 their favor, whenever you get through with it,
10 because you've got to have the camera.

11 CHAIRMAN RAMOS: And you would -- we
12 would have to have evidence that they even have
13 the footage for that.

14 MS. BLAND: It's on tape, sir. I
15 gave you the tape. It's on the tape.

16 CHAIRMAN RAMOS: It's on the audio
17 tape? It's on the video --

18 MS. BLAND: It's on the audio tape.
19 She said, "I'll review the footage." You should
20 have asked for it. Then I talked to her and I
21 asked her, "Could you get the footage?" That's
22 the main thing. You've got to get the footage,
23 then you make up your decision. You've got to

1 get both sides before you make a decision. It
2 just can't go in Ortho Indy's --

3 COMM. SLASH: We have a full
4 investigative report and --

5 MS. BLAND: No, you didn't. You
6 didn't investigate it good. No, you didn't,
7 because you should have got the footage.

8 COMM. SLASH: We appreciate --

9 MS. BLAND: We're on camera. We gave
10 them the camera.

11 COMM. SLASH: We appreciate you
12 sharing.

13 MS. BLAND: That's wrong.

14 CHAIRMAN RAMOS: Ma'am, there's a
15 call to order.

16 MS. BLAND: I'm sorry; that's wrong.

17 CHAIRMAN RAMOS: You can file a
18 request with the Commission to have it
19 re-reviewed --

20 MS. BLAND: I knew she wasn't going
21 to do nothing.

22 CHAIRMAN RAMOS: -- but at this
23 point, this case has been dismissed, or at least

1 it was upheld, the Director's finding of no
2 probable cause. There is a process that you can
3 follow if you so choose.

4 MS. BLAND: So, where do I go and do
5 that at?

6 CHAIRMAN RAMOS: You can go to --
7 chat with the Executive Director or the -- or
8 call whoever your investigator was, and --

9 MS. POSEY: So, once you --

10 CHAIRMAN RAMOS: -- again, you can
11 file a motion.

12 MS. POSEY: If I may, once the
13 case -- once the complaint is filed, it's been
14 investigated. The Commission created the finding
15 of no probable cause in this case. You appealed
16 your decision. It came to the Commission for the
17 final --

18 MS. BLAND: Yeah, but you didn't --

19 MS. POSEY: -- word in this case.

20 MS. BLAND: -- get the camera. How
21 are you going to make a decision when you didn't
22 get the camera, ma'am? You didn't get the
23 camera.

1 MS. POSEY: If the camera was sent to
2 the investi -- if the investigator --

3 MS. BLAND: No, you've got to ask for
4 it, because the lawyer said the only way you can
5 get it, it's got to be approved by a judge.

6 MS. POSEY: Okay. So, we can talk
7 about this afterward, because I don't have your
8 file in front of me --

9 MS. BLAND: Okay. We'll you're the
10 one --

11 MS. POSEY: -- to say that we got the
12 camera or not, but I don't --

13 MS. BLAND: Well -- and you've got
14 all of my paperwork. It's all in my paperwork.

15 MS. POSEY: So, I'd like to talk to
16 you right after the Commission --

17 MS. BLAND: All right, then.

18 MS. POSEY: Thank you.

19 MS. BLAND: Shoot. That can't go in
20 their favor.

21 CHAIRMAN RAMOS: Thank you.

22 In the case of Hassanin A l y versus
23 Steak n Shake, Comm. Jackson?

1 COMM. JACKSON: To uphold the
2 Director's findings of no probable cause.

3 CHAIRMAN RAMOS: I need a motion to
4 approve.

5 COMM. HARRINGTON: So moved.

6 CHAIRMAN RAMOS: I need a --

7 COMM. SLASH: Second.

8 CHAIRMAN RAMOS: Second by
9 Comm. Slash. Those in favor, signify by saying
10 aye.

11 Comm. Blackburn?

12 COMM. BLACKBURN: Aye.

13 CHAIRMAN RAMOS: Comm. Slash?

14 COMM. SLASH: Aye.

15 CHAIRMAN RAMOS: Comm. Harrington?

16 COMM. HARRINGTON: Aye.

17 CHAIRMAN RAMOS: Comm. Jackson?

18 COMM. JACKSON: Aye.

19 CHAIRMAN RAMOS: And aye as well.

20 Comm. Harrington?

21 COMM. HARRINGTON: In the case of
22 Jason -- I think it's Wineke -- versus Hamilton
23 Center, I uphold the no probable cause finding.

1 CHAIRMAN RAMOS: I need a motion to
2 approve.

3 COMM. SLASH: So moved.

4 CHAIRMAN RAMOS: I need a second.

5 COMM. JACKSON: Second.

6 CHAIRMAN RAMOS: All those in favor,
7 signify by saying aye.

8 Comm. Jackson?

9 COMM. JACKSON: Aye.

10 CHAIRMAN RAMOS: Comm. Blackburn?

11 COMM. BLACKBURN: Aye.

12 CHAIRMAN RAMOS: Comm. Harrington?

13 COMM. HARRINGTON: Aye.

14 CHAIRMAN RAMOS: Comm. Slash?

15 COMM. SLASH: Aye.

16 CHAIRMAN RAMOS: And aye as well.

17 The next case is Lisa Schneider versus the
18 Concert Golf Partners, Comm. Blackburn.

19 COMM. BLACKBURN: Would you speak a
20 little louder?

21 CHAIRMAN RAMOS: This is your case,
22 Comm. Blackburn, Lisa Schneider versus Concert
23 Golf Partners. What's your recommendation?

1 COMM. BLACKBURN: Oh, in the case,
2 I'd like to uphold the finding of no probable
3 cause.

4 CHAIRMAN RAMOS: Okay.
5 I need a motion to approve.

6 COMM. HARRINGTON: So moved.

7 CHAIRMAN RAMOS: I need a second.

8 COMM. SLASH: Second.

9 CHAIRMAN RAMOS: Those in favor,
10 signify by saying aye.

11 Comm. Slash?

12 COMM. SLASH: Aye.

13 CHAIRMAN RAMOS: Comm. Harrington?

14 COMM. HARRINGTON: Aye.

15 CHAIRMAN RAMOS: Comm. Jackson?

16 COMM. JACKSON: Aye.

17 CHAIRMAN RAMOS: Comm. Blackburn?

18 COMM. BLACKBURN: Aye.

19 CHAIRMAN RAMOS: And aye as well.

20 The next case is James Clark versus the
21 BMV. In this case, I recommend to uphold the
22 Deputy Director's finding of no probable cause.
23 I need a motion to approve.

1 COMM. SLASH: So moved.

2 CHAIRMAN RAMOS: I need a second.

3 COMM. HARRINGTON: Second.

4 CHAIRMAN RAMOS: Those in favor,
5 signify by saying aye.

6 Comm. Jackson?

7 COMM. JACKSON: Aye.

8 CHAIRMAN RAMOS: Comm. --

9 COMM. JACKSON: Aye.

10 CHAIRMAN RAMOS: Comm. Alpha --

11 Comm. Blackburn? I'm sorry.

12 COMM. BLACKBURN: Aye.

13 CHAIRMAN RAMOS: Comm. Slash?

14 COMM. SLASH: Aye.

15 CHAIRMAN RAMOS: Comm. Harrington?

16 COMM. HARRINGTON: Aye.

17 CHAIRMAN RAMOS: And aye as well.

18 In the case of Victoria Johnson versus the
19 Anderson Housing Authority. She submitted audio
20 tapes in the last session. I did review those
21 tapes, and again, I recommend that we uphold the
22 Director's finding of no probable cause. I need
23 a motion to approve.

1 COMM. SLASH: So moved.

2 CHAIRMAN RAMOS: I need a second.

3 COMM. HARRINGTON: Second.

4 CHAIRMAN RAMOS: All those in favor,
5 signify by saying aye.

6 Comm. Blackburn?

7 COMM. BLACKBURN: Aye.

8 CHAIRMAN RAMOS: Comm. Jackson?

9 COMM. JACKSON: Aye.

10 CHAIRMAN RAMOS: Comm. Slash?

11 COMM. SLASH: Aye.

12 CHAIRMAN RAMOS: Comm. Harrington?

13 COMM. HARRINGTON: Aye.

14 CHAIRMAN RAMOS: And aye.

15 That takes us to New Business and the
16 appointment of Commissioners to the Complainants'
17 Appeals of Director Findings. We have five cases
18 to assign, the first of which is Veronica Zrnchik
19 versus the Northern Indiana Public Service
20 Company, and I will take that case. The next
21 case is Rick Cavaness versus Aramark,
22 Comm. Slash. The next case is Tony Finch versus
23 Aramark, Comm. Harrington. The next case is

1 Kimberly Perez versus American Senior
2 Communities, L.L.C., D/B/A Eagle Care, L.L.C.,
3 Comm. Blackburn. Actually there are --

4 COMM. BLACKBURN: Pardon?

5 CHAIRMAN RAMOS: -- two cases, four
6 and five are the same case, so I recommend
7 assigning those both to Comm. Blackburn.

8 COMM. BLACKBURN: Would you send it
9 to me?

10 CHAIRMAN RAMOS: Absolutely, we'll
11 send that to you.

12 COMM. BLACKBURN: Thank you.

13 CHAIRMAN RAMOS: The next item on the
14 agenda is Review of the ALJ Decisions and Orders.
15 Do we want to do the Director's Report before we
16 do that?

17 MS. POSEY: Sure.

18 CHAIRMAN RAMOS: Okay.

19 MS. POSEY: All right. Good
20 afternoon, Commissioners.

21 CHAIRMAN RAMOS: Good afternoon.

22 MS. POSEY: I'm here to present the
23 Agency Monthly Report for September. We're going

1 to skip that August at a Glance page and go
2 directly to -- Intake Unit is on page four of the
3 Director's Report -- I mean of the Agency Report.
4 This is the full Agency Report that we create
5 every month. It's available to the public, and I
6 just wanted to highlight a couple of things.

7 The total number of inquiries that we
8 received for the month of September went up from
9 August, so it was 186 in August, up to 248 in
10 September, so that also signifies that we started
11 our marketing initiative in September, so
12 hopefully we'll continue to see that number grow.
13 So, I'm really happy to see -- I mean that's a
14 pretty big jump from one month to the next, so
15 hopefully we'll continue to see that number rise
16 in number of inquiries that are received per
17 month in our agency.

18 Another thing to note is the types of
19 complaints that we received, on page seven.
20 Unfortunately you can't really see it because
21 it's highlighted for September on page seven, but
22 this month we noted that the number of formalized
23 complaints in September, the highest number was

1 Race, 34, and then followed by Disability at 20,
2 and we're continuing to see both Race and
3 Disability at the top.

4 But lately, in the past five or six
5 months, Race has really taken the lead above
6 Disability, whereas last year, if you recall, I
7 talked a lot about Disability being our number
8 one, but as of lately, Race has crept back up
9 there in terms of complaints that we've received.

10 CHAIRMAN RAMOS: Any logic behind
11 why? Any thoughts?

12 MS. POSEY: No, at this point, we
13 don't really have -- I guess we haven't really
14 looked at the data enough in comparison with the
15 prior years to see, you know, kind of what that
16 means.

17 CHAIRMAN RAMOS: Okay.

18 MS. POSEY: But it's always
19 interesting to see, you know, what is happening
20 across the state in what areas, so what that does
21 for us is it helps guide our marketing strategies
22 and who we need to be partnering with and where
23 across the state we need to be partnering. So,

1 those are some of the important things to share.

2 Another thing I wanted to share, and we
3 can -- I'll just speak on this. It's not really
4 in the report. Usually when we are looking at --
5 when we're thinking about our mediations, we're
6 thinking about how much monetary damages can we
7 secure for the aggrieved person. So, that's kind
8 of the number one goal of the aggrieved person.

9 But at the Commission, our number one goal
10 is the affirmative relief, to make sure that
11 discrimination is not happening across the board.
12 So, I wanted to present to you that recently we
13 had a mediation where -- it was an employment
14 case. The parties came to an agreement that
15 there was no money to be involved, and in that
16 matter, the Complainant just wanted an apology
17 from her former employer, a handwritten apology,
18 and they went with it and that was a part of the
19 settlement. And to me, that is just as important
20 as securing --

21 CHAIRMAN RAMOS: Sure.

22 MS. POSEY: -- \$50,000, you know, for
23 someone who secured damages, because at the end

1 of the day, we're here to make sure that people
2 are as whole as possible. That person didn't
3 actually lose out on any money. They were trying
4 to get re-employed somewhere, and the employer
5 didn't want to re-employ them, so they didn't
6 actually lose out on any money, so there was
7 really no monetary damages in terms of wages, but
8 we were happy to see that both parties came to
9 that agreement, and they apologized for their
10 action. So, to me, that was a win for September.

11 And last but not least, I wanted to, on
12 the record, state that this will be my last
13 Commission meeting as Deputy Director and General
14 Counsel here. I am going to be moving on to a
15 new opportunity after this month, so I just
16 wanted to thank you all for everything that you
17 do for the Commission, and helping me throughout
18 my journey here as well. So, thank you all.

19 CHAIRMAN RAMOS: Thank you. You've
20 done a great job. We've enjoyed having the
21 opportunity to work with you, and we definitely
22 wish you great success. We know that won't be a
23 problem because that's who you are.

1 MS. POSEY: Thank you.

2 CHAIRMAN RAMOS: But thank you so
3 much for all you've done for us as well.

4 COMM. SLASH: We appreciate your
5 attention to all of the details helping us on
6 these cases, and you put things together so that
7 we could have a more -- I don't know what the
8 word is I'm looking for here, but so that we
9 could get ourselves up to speed, and for training
10 us as the newer Commissioners that have come onto
11 the -- onto our Commission. So, thank you.

12 MS. POSEY: Thank you.

13 COMM. HARRINGTON: And let us know if
14 you need us in your new journey.

15 MS. POSEY: I will.

16 COMM. SLASH: I was going to say, you
17 have diversity professionals that are up here --

18 MS. POSEY: Yeah.

19 COMM. SLASH: -- cheering you on.

20 MS. POSEY: Thank you. Any questions
21 for me in regards to the report or anything else
22 related to the Commission?

23 CHAIRMAN RAMOS: Comm. Jackson,

1 Comm. Alpha -- or Blackburn; sorry about that --
2 any questions for the Deputy Director?

3 COMM. BLACKBURN: No, but I want to
4 comment that we want to thank you for your
5 dedicated service to the Civil Rights Commission.

6 MS. POSEY: Thank you.

7 COMM. JACKSON: And thank you for all
8 of your great work, and God speed on your next
9 opportunity, and we'll see you around.

10 MS. POSEY: All right.

11 CHAIRMAN RAMOS: Thank you.

12 So, the next item is the Review of the ALJ
13 Decisions and orders. Judge Ryker?

14 JUDGE STEPHENS RYKER: So, the first
15 that's on the agenda is Jordan versus 8 Seconds
16 Salon. Sorry. This was a case that was
17 dismissed after both parties jointly requested
18 the dismissal. Because of the large record in
19 some of these cases, you'll note that the
20 documents that are usually in a binder are
21 provided in the three folders in front of you,
22 and this is the case that is in the pink folder.

23 CHAIRMAN RAMOS: Okay. In this case,

1 Jordan versus 8 Seconds Salon, we would make a
2 motion or a vote to affirm the ALJ's order to
3 dismiss this case after both parties have
4 requested dismissal, so I need a motion to vote
5 to affirm the order.

6 COMM. SLASH: So moved.

7 CHAIRMAN RAMOS: I need a second.

8 COMM. HARRINGTON: Second.

9 CHAIRMAN RAMOS: Although those in
10 favor, signify by saying aye.

11 Comm. Jackson?

12 COMM. JACKSON: Aye.

13 CHAIRMAN RAMOS: Comm. Blackburn?

14 COMM. BLACKBURN: Aye.

15 CHAIRMAN RAMOS: Comm. Harrington?

16 COMM. HARRINGTON: Aye.

17 CHAIRMAN RAMOS: Comm. Slash?

18 COMM. SLASH: Aye.

19 CHAIRMAN RAMOS: And aye.

20 The next item is a case that we heard oral
21 arguments on last month. This was He, as it's
22 listed here, versus the Belterra Casino, and I'll
23 just read this for the record: After conducting

1 a hearing on the merits, the ALJ found --

2 COMM. SLASH: I think you need to
3 call the --

4 CHAIRMAN RAMOS: Ah, you're right.

5 COMM. SLASH: We need to call --

6 JUDGE STEPHENS RYKER: We need to
7 call the interpreter.

8 CHAIRMAN RAMOS: Did we receive the
9 interpreter? Is she here?

10 JUDGE STEPHENS RYKER: I have to call
11 and request it; I'm sorry.

12 CHAIRMAN RAMOS: Oh. Should we take
13 a quick pause, or do you think we'll get
14 instantaneous action?

15 JUDGE STEPHENS RYKER: It may take me
16 a minute to set this up.

17 CHAIRMAN RAMOS: Okay. We'll do a
18 pause for a second.

19 (Pause in proceedings.)

20 CHAIRMAN RAMOS: I will call us back
21 to order. If you would on the phone, please,
22 identify your name and I guess your translation
23 number for the record, please.

1 THE INTERPRETER: Sure. Hello. My
2 name is Cynthia Hahn, and that I.D. is CCCH,
3 Charlie Charlie Charlie Henry.

4 CHAIRMAN RAMOS: I'm going to read to
5 you a statement for swearing in. Please raise
6 your right hand, and we will presume you have it
7 raised. Do you affirm under penalties of perjury
8 that you will justly, truly and impartially
9 interpret to the witness the oath about to be
10 administered to her, the questions that may be
11 asked of her, and the answers that she may give
12 to the questions relative to the cause now under
13 consideration before this agency?

14 THE INTERPRETER: Yes, I do.

15 CHAIRMAN RAMOS: Thank you.

16 So, the process of this is we will discuss
17 and then allow the interpreter to translate.

18 Cynthia, would you --

19 THE INTERPRETER: You want me to
20 translate this sentence, too; right?

21 CHAIRMAN RAMOS: Yeah. So, when you
22 hear the pregnant pause, that's your cue.

23 THE INTERPRETER: Uh-huh.

1 (Interpreted.)

2 CHAIRMAN RAMOS: Do you want to move
3 up here?

4 THE INTERPRETER: Okay. Understand.

5 CHAIRMAN RAMOS: She can move up one
6 chair if she would like, if it's -- if it
7 provides better sound for you. Can you hear her
8 okay, Cynthia?

9 THE INTERPRETER: She sounds a little
10 bit far, so it would be nice if she can move up.

11 (Interpreted.)

12 JUDGE STEPHENS RYKER: Not to
13 interrupt. Comm. Blackburn dropped off the phone
14 call, and she's calling back in.

15 CHAIRMAN RAMOS: Okay. Thank you.

16 (Pause in proceedings.)

17 JUDGE STEPHENS RYKER: Okay. Like
18 last time, I'm going to recuse myself from the
19 room during the time of these.

20 CHAIRMAN RAMOS: Okay.

21 COMM. BLACKBURN: Comm. Blackburn.

22 CHAIRMAN RAMOS: All right. We
23 are -- we are back to our quorum as well.

1 COMM. HARRINGTON: Uh-huh.

2 COMM. SLASH: Uh-huh.

3 CHAIRMAN RAMOS: So, in the -- in
4 this particular case of He versus the Belterra
5 Casino, in our -- you can translate that. I'll
6 try and pause.

7 (Interpreted.)

8 CHAIRMAN RAMOS: The Commission
9 provided orders to the ALJ on three parts, and we
10 were out of process. I'll stop there.

11 THE INTERPRETER: I'm sorry; can you
12 explain that again? I'm not understanding what
13 you mean, because I'm totally -- I have no
14 context.

15 CHAIRMAN RAMOS: Okay. In our last
16 meeting, the Commission ordered the Judge to
17 provide additional information, and so, we're
18 going to discuss that, so I was just breaking
19 there so you could help explain it.

20 (Interpreted.)

21 CHAIRMAN RAMOS: So, we provided a --
22 after the meeting, we provided an order of
23 correction, which corrected the error. All --

1 our options were to remand, uphold, reverse or
2 dismiss this particular case.

3 THE INTERPRETER: Okay. I'm sorry; I
4 want to make sure I understand. So, after the
5 meeting, there was an order of correction, and
6 then the choices are either to amend, dismiss or
7 what else?

8 CHAIRMAN RAMOS: So, in -- the normal
9 process for the Commission is to uphold, to
10 dismiss, to reverse or to -- uphold, dismiss --

11 COMM. SLASH: Or remand.

12 CHAIRMAN RAMOS: Remand, yes, remand.
13 So, those are the four things that we can do.

14 MS. POSEY: So, you can uphold the
15 ALJ's decision --

16 THE INTERPRETER: I'm sorry; uphold?

17 MS. POSEY: You can uphold the ALJ's
18 decision, the Judge's decision, as is.

19 CHAIRMAN RAMOS: Do you want to
20 translate that?

21 THE INTERPRETER: Uh-huh.

22 MS. POSEY: Go ahead and translate
23 that.

1 (Interpreted.)

2 MS. POSEY: No. 2, you can reverse
3 the Judge's de -- the ALJ's decision. Go ahead.

4 (Interpreted.)

5 MS. POSEY: No. 3, you can have the
6 ALJ reopen the hearing and have more invest -- or
7 do more of the hearing. You can reopen the
8 hearing.

9 THE INTERPRETER: I'm sorry; can you
10 say that again?

11 MS. POSEY: The Commission can reopen
12 the hearing.

13 (Interpreted.)

14 MS. POSEY: So, today the Commission
15 is going to make a decision to uphold the --
16 uphold the ALJ's decision as is or make any
17 changes that they want to in regards to the
18 order. They can totally reverse what the ALJ has
19 done and said, "Instead of being for the
20 Complainant, we reverse for the Respondent," or
21 they can say, "Reopen the case and go back to the
22 hearing. So, that is what the AL -- the
23 Commission is charged with doing today.

1 (Interpreted.)

2 CHAIRMAN RAMOS: Okay. So, we -- so,
3 we provided orders to the Judge instead of
4 following the process just described.

5 THE INTERPRETER: I'm sorry; can you
6 say that again?

7 CHAIRMAN RAMOS: So, in the meeting,
8 we provided orders to the ALJ that were outside
9 of that which was just explained.

10 (Interpreted.)

11 CHAIRMAN RAMOS: So, to correct that,
12 we need to make a decision --

13 COMM. SLASH: Uh-huh.

14 CHAIRMAN RAMOS: -- as posted. We
15 need to remand it back to follow the directions
16 in our last piece. We need to uphold, we need to
17 reverse, or we need to dismiss. That's the
18 orders that we need to do. Based on our
19 questions that we had outstanding, my
20 recommendation would be to remand it back to the
21 ALJ, following the orders that we had submitted
22 previously.

23 MS. POSEY: So, when you remand it

1 back to the ALJ, you have to have specific
2 instructions.

3 CHAIRMAN RAMOS: Which we do.

4 MS. POSEY: No, it must be "This
5 calcu --" if it was about a calculation, "This
6 calculation is incorrect. Do this calculation,"
7 and not "Tell me how you did your calculation,"
8 or "We need a new calculation." You need to be
9 specific as to what exactly you want --

10 CHAIRMAN RAMOS: So, the questions --

11 MS. POSEY: -- ALJ to do.

12 CHAIRMAN RAMOS: During the arguments
13 there were questions that were raised in that --
14 in that specific process. We couldn't answer the
15 questions, so that's why we were asking for
16 clarification.

17 MR. HEALY: Excuse, Mr. Ramos -- or
18 Commissioner and parties. I should point out
19 that I filed with you a supplemental material in
20 regard to the initial findings of fact,
21 conclusions of law and order pursuant to
22 910 IAC 1-11-2, which states that at any time
23 after a hearing has been closed but prior to

1 final determination, that upon the motion of any
2 party, it could reopen to receive further
3 evidence or argument. We are providing you with
4 material specifically concerning the issue of
5 communication in the barista position.

6 In its brief filed on August 23rd, the
7 Respondent also cited this regulation to
8 introduce evidence that was not previously
9 brought before the assigned Administrative Law
10 Judge. We believe that it was important to do
11 the same upon the point of -- solely upon the
12 point of communication for the barista position.

13 CHAIRMAN RAMOS: Counsel, we have to
14 translate.

15 MR. HEALY: Do you want me to start
16 over?

17 THE INTERPRETER: I'm sorry; I cannot
18 translate because there's so much going on
19 between -- you guys are just talking among
20 yourselves, so interpreter doesn't know where --
21 you would have to start over if you want it
22 translated.

23 MR. HEALY: I'll start over.

1 CHAIRMAN RAMOS: So, the key question
2 was from the Deputy Director, which had to do
3 with orders; right?

4 Go ahead. Can you translate that?

5 THE INTERPRETER: Can you say that
6 again? And please speak up when you are saying,
7 because I don't know whether you're talking among
8 yourselves or you're wanting me to translate it.

9 CHAIRMAN RAMOS: Okay. So, the
10 Deputy Director raised a question for the ALJ
11 from a remand standpoint, that she needs to have
12 specific directions to follow.

13 (Interpreted.)

14 CHAIRMAN RAMOS: During the oral
15 arguments, the Commission had questions on
16 understanding how the amount of remuneration
17 [sic] was created.

18 (Interpreted.)

19 CHAIRMAN RAMOS: We also had
20 questions on the area of communication.

21 (Interpreted.)

22 CHAIRMAN RAMOS: So, our
23 recommendation is to remand back to the ALJ for

1 those clarifying points.

2 (Interpreted.)

3 MS. POSEY: So, when it goes back to
4 the ALJ, her -- at this point, the only thing
5 that she can do is reopen the record, and if
6 there are those specific questions, reopen the
7 hearing, or the answers -- oh, sorry. Uh-huh.

8 (Interpreted.)

9 MS. POSEY: Or the Commission looks
10 at the initial decision from the ALJ plus the
11 briefs from the two parties during the appeal and
12 the oral arguments to then make the decision.

13 THE INTERPRETER: I'm sorry; can you
14 explain this one a little bit more, please?

15 MS. POSEY: Yes. The Commission
16 could also look at the initial decision from the
17 Administrative Law Judge plus the materials from
18 the two parties during the appeal and further
19 from the oral argument that took place last
20 month.

21 THE INTERPRETER: I'm sorry; from the
22 oral argument that took place --

23 MS. POSEY: Last month.

1 THE INTERPRETER: -- I couldn't hear
2 that word.

3 MS. POSEY: Last month, the argument
4 that they had last month.

5 THE INTERPRETER: Oh, last month.

6 MS. POSEY: Uh-huh.

7 (Interpreted.)

8 CHAIRMAN RAMOS: Okay. Counsel
9 Bremer, you had some additional points?

10 MR. HEALY: Yes. I'm Mr. Healy.

11 CHAIRMAN RAMOS: I'm sorry,
12 Mr. Healy.

13 MR. HEALY: Thank you.

14 I filed Complainant's supplemental
15 material in regard to the initial findings of
16 fact, conclusions of law and order.

17 THE INTERPRETER: And I'm sorry, sir;
18 is that possible that you get closer to the
19 microphone?

20 MR. HEALY: Oh. I filed
21 Complainant's.

22 THE INTERPRETER: It is very hard to
23 understand what you're saying.

1 MR. HEALY: I'll try to speak slower.

2 Well --

3 THE INTERPRETER: Thank you.

4 MR. HEALY: -- I filed Complainant's
5 supplemental material in regard to the initial
6 findings of fact, conclusions of law and order.

7 (Interpreted.)

8 MR. HEALY: This was done because of
9 the order on remand, which stated that one of the
10 three issues to be determined was communication
11 by Complainant in the barista position.

12 THE INTERPRETER: By -- I'm sorry --
13 Complainant in the barista position?

14 MR. HEALY: Barista, yes.

15 THE INTERPRETER: Like a bartender?

16 MR. HEALY: Well --

17 CHAIRMAN RAMOS: Think of Starbucks.
18 The employees at Starbucks are called baristas.

19 THE INTERPRETER: Okay. I see.

20 (Interpreted.)

21 CHAIRMAN RAMOS: Without going into
22 all of the details, Mr. Healy, can you just net
23 the pieces out, because we're going to push it

1 back in. We don't need the reopen all of the
2 oral discussion from a month ago.

3 MR. HEALY: I'm making the motion
4 that this supplemental material be included for
5 the reasons that are contained in my motion to
6 you.

7 CHAIRMAN RAMOS: Okay.

8 (Interpreted.)

9 CHAIRMAN RAMOS: Do we have
10 representation from --

11 MR. PETTYGROVE: Yes.

12 CHAIRMAN RAMOS: -- counsel?

13 MR. PETTYGROVE: May I?

14 CHAIRMAN RAMOS: Please.

15 MR. PETTYGROVE: Good afternoon. My
16 name is Joe Pettygrove. I represent Respondent,
17 Belterra.

18 (Interpreted.)

19 MR. PETTYGROVE: For the sake of
20 time, I'll simply note Belterra objects to the
21 introduction of additional evidence at this
22 point.

23 (Interpreted.)

1 MR. PETTYGROVE: This case has been
2 pending for years, has been through years of
3 discovery that closed, and five days of hearing.

4 (Interpreted.)

5 MR. PETTYGROVE: I've had this brief
6 for about 30 minutes, but on quick review --

7 THE INTERPRETER: I'm sorry; can you
8 say that again? I just missed a couple of words,
9 and I cannot translate.

10 MR. PETTYGROVE: Sure. I've had this
11 brief for about 30 minutes, but based on my quick
12 review --

13 (Interpreted.)

14 MR. PETTYGROVE: -- the subject
15 matter -- rather the issue is not a surprise. It
16 should have been explored in discovery, the
17 parties should have put on their evidence at the
18 hearing, and there's no justification for
19 belatedly trying to put in this much new evidence
20 at this point.

21 (Interpreted.)

22 MR. PETTYGROVE: And I -- if the
23 Commission wants a brief statement as to the

1 substance of the motion, I'm happy to give it,
2 but I'll pause at this point on the procedural
3 objection. Thank you.

4 (Interpreted.)

5 CHAIRMAN RAMOS: Thank you.

6 Is there anything relevant?

7 MR. HEALY: Your Honor, four years
8 after Complainant's deposition was taken,
9 Respondent, for the first time, well after the
10 hearing closed, tried to insert parts of the
11 deposition into the record, even though it had
12 never been introduced before the Administrative
13 Law Judge. I am doing -- go ahead.

14 THE INTERPRETER: I'm sorry; can --
15 I'm sorry; please do not go on and on.

16 MR. HEALY: I'm sorry.

17 THE INTERPRETER: The interpreter
18 cannot translate accurately. And could you
19 repeat that and explain that a little bit,
20 because I have totally no background on what's
21 going on. It's very hard to translate, very
22 difficult, because words -- I cannot translate as
23 a word, because I have to know what's going on

1 first. Otherwise, you don't -- there may be some
2 misunderstanding.

3 MR. HEALY: Four years after
4 Complainant's deposition was taken --

5 (Interpreted.)

6 MR. HEALY: -- Respondent, for the
7 first time, tried to insert it into the record.

8 (Interpreted.)

9 MR. HEALY: They cited the same
10 regulation that I cited.

11 (Interpreted.)

12 MR. HEALY: This material does not
13 address any facts regarding Belterra.

14 (Interpreted.)

15 MR. HEALY: It only speaks of Dusan's
16 general language ability and how many words she
17 would have to know to do the job.

18 (Interpreted.)

19 CHAIRMAN RAMOS: You have an
20 opportunity to counter that.

21 MR. PETTYGROVE: Thank you. Sorry.

22 The page or two of deposition testimony

23 Respondent submitted after the hearing --

1 THE INTERPRETER: I'm sorry; can you
2 say that again, please?

3 MR. PETTYGROVE: Yes. The page or
4 two of deposition testimony that Respondent
5 submitted after the hearing --

6 (Interpreted.)

7 MR. PETTYGROVE: -- has nothing to do
8 with the communications skills issue.

9 (Interpreted.)

10 MR. PETTYGROVE: Footnote 5 in our
11 post-hearing brief explains why that submission
12 corrects misstatements of the record.

13 THE INTERPRETER: I'm sorry; can you
14 say that again, please?

15 MR. PETTYGROVE: I defer to
16 Footnote 5 in our post-hearing brief for
17 explanation on that point.

18 THE INTERPRETER: You uphold to
19 Footnote 5?

20 MR. PETTYGROVE: I would direct the
21 Commission's attention to Footnote 5 in our
22 brief.

23 THE INTERPRETER: Oh, okay.

1 (Interpreted.)

2 MR. PETTYGROVE: That's not what
3 Commission counsel is asking the Commission to do
4 here today.

5 (Interpreted.)

6 MR. PETTYGROVE: The multipage
7 supplemental brief that I just received appears
8 to go into issues involving academic studies and
9 scientific studies --

10 (Interpreted.)

11 MR. PETTYGROVE: -- that are: One,
12 prejudicially late --

13 (Interpreted.)

14 MR. PETTYGROVE: -- and two, directed
15 at an irrelevant point of law.

16 (Interpreted.)

17 MR. PETTYGROVE: This brief appears
18 to focus on vocabulary skills, which has never
19 been the issue. That word appears nowhere in the
20 record. It says nothing about overall
21 communication skills.

22 (Interpreted.)

23 MR. PETTYGROVE: And this belated

1 effort to address an irrelevant point should not
2 further delay resolution of this case.

3 (Interpreted.)

4 CHAIRMAN RAMOS: Thank you.

5 MR. PETTYGROVE: Thank you.

6 CHAIRMAN RAMOS: I think we have
7 enough information, Commissioners, that we can
8 make a decision. I don't know that we need to go
9 further into it. Do you need -- do you need
10 further information?

11 COMM. SLASH: (Shook head no.)

12 CHAIRMAN RAMOS: Do you,
13 Comm. Harrington?

14 COMM. HARRINGTON: No.

15 CHAIRMAN RAMOS: Comm. Jackson,
16 Comm. Blackburn, do you need any additional
17 information from either counsel?

18 COMM. BLACKBURN: No.

19 COMM. JACKSON: No.

20 COMM. BLACKBURN: No.

21 (Interpreted.)

22 CHAIRMAN RAMOS: Okay. So, to
23 clarify our options, to go back, we can remand

1 and reopen this case, which means that all
2 relevant information can be resubmitted?

3 (Interpreted.)

4 MS. POSEY: It's hard for me to
5 answer that question. Really, what the
6 Commission needs to do is take all of the
7 information that they've received. I'll pause.

8 (Interpreted.)

9 MS. POSEY: And make the final
10 determination. So, the AL --

11 (Interpreted.)

12 MS. POSEY: The ALJ has had the
13 hearing, received all of the evidence from all of
14 the parties.

15 (Interpreted.)

16 MS. POSEY: Based on the ALJ's
17 experience of hearing -- of being at the hearing,
18 seeing the live testimony, reading all of the
19 documents --

20 (Interpreted.)

21 MS. POSEY: -- she has made a
22 decision. And now the Commission must either
23 accept her decision or not accept her decision.

1 (Interpreted.)

2 MS. POSEY: If the Commission does
3 not accept the decision as it is, you must tell
4 her exactly what you want to be changed. It
5 can't just be --

6 (Interpreted.)

7 MS. POSEY: It can't just be
8 "Re-explain how you got to your calculations," or
9 "Re-explain the communications." I'm not sure
10 what the exact issue is here.

11 (Interpreted.)

12 MS. POSEY: It must be directed. It
13 must be -- the calculation -- if the issue is the
14 calculation, then "The calculation is now two
15 percent, and ALJ, redo your decision at two
16 percent."

17 (Interpreted.)

18 THE INTERPRETER: I'm sorry; can you
19 explain your point --

20 MS. POSEY: That was just an example.

21 THE INTERPRETER: -- about the
22 calculation?

23 MS. POSEY: Yeah, that was just an

1 example, that the Commission has to tell her
2 exactly what to do, so she must -- they must tell
3 her two percent or four percent, but they can't
4 just tell her, you know, "Tell us how you got to
5 your percentage."

6 (Interpreted.)

7 MS. POSEY: Now, on the other hand,
8 if the Commission believes that the record is
9 incomplete --

10 (Interpreted.)

11 MS. POSEY: -- then the Commission
12 must tell the ALJ to reopen the record and get
13 the exist -- the information that is incomplete.

14 THE INTERPRETER: Okay. I'm sorry.
15 When you first say -- I'm sorry -- when the
16 Commissioner think that the record is complete,
17 maybe I misheard you. Are you saying that if the
18 Commissioner think the record is incomplete, then
19 he must ask the ALJ to reopen and --

20 MS. POSEY: And find the specific --
21 and find the specific information, yes. If it's
22 incomplete, the ALJ reopens the record to get the
23 specific information that the Commissioner

1 requests.

2 THE INTERPRETER: Uh-huh.

3 (Interpreted.)

4 CHAIRMAN RAMOS: Okay. So, the --

5 MR. HEALY: Excuse me. I'm sorry.

6 Your Honor, Mr. Pettygrove has made an objection

7 to my supplemental material. I would

8 respectfully request that there be --

9 CHAIRMAN RAMOS: Translate.

10 THE INTERPRETER: I'm sorry; could

11 you say that again?

12 MR. HEALY: Mr. Pettygrove has

13 objected to my supplemental material that I have

14 filed.

15 (Interpreted.)

16 MR. HEALY: I would ask that the

17 Commission rule on that objection before a final

18 determination is made.

19 (Interpreted.)

20 MR. HEALY: And in the event they

21 sustain his objection, I would like to make an

22 offer of proof to the Commission.

23 (Interpreted.)

1 COMM. BLACKBURN: What? I'm sorry; I
2 did not hear.

3 (Interpreted.)

4 CHAIRMAN RAMOS: Okay. I think, from
5 the --

6 COMM. HARRINGTON: Comm. Blackburn
7 had a question.

8 CHAIRMAN RAMOS: Comm. Blackburn, did
9 you have a question?

10 (Interpreted.)

11 COMM. BLACKBURN: I couldn't hear --
12 I did not hear what you said. You wanted a
13 determination to be made regarding the
14 supplemental materials prior to -- and I couldn't
15 hear the rest of it.

16 MR. HEALY: Prior to -- should I
17 wait?

18 CHAIRMAN RAMOS: I don't know that
19 that's relevant to translate.

20 MR. HEALY: Prior to the final
21 determination --

22 THE INTERPRETER: I'm sorry; I --

23 MR. HEALY: -- of the case.

1 THE INTERPRETER: -- totally do not
2 hear what's going on.

3 CHAIRMAN RAMOS: It's just a
4 clarifying point, so you don't need to translate.
5 There's a question that she couldn't hear
6 Mr. Healy, so he's just clarifying it to the
7 Commissioner.

8 THE INTERPRETER: Okay.

9 CHAIRMAN RAMOS: Could you answer her
10 question?

11 MR. HEALY: Yes. Prior to a final
12 determination, that there be a ruling on the
13 supplemental material, and if the ruling is -- if
14 Mr. Pettygrove's objection is sustained, I would
15 like to make an offer of proof.

16 COMM. BLACKBURN: Thank you.

17 CHAIRMAN RAMOS: So, we have an
18 interesting -- this is an interesting process.
19 Again, our options, we can uphold the decision --
20 and it's really a two-part process. One is to
21 uphold the decision of the findings, and then the
22 second would be the amount of funding that would
23 be provided.

1 (Interpreted.)

2 CHAIRMAN RAMOS: So, we can, again,
3 uphold, reverse, or open. So, let's open that up
4 for discussion, please. Go ahead.

5 (Interpreted.)

6 MS. POSEY: Now, when I say "uphold,"
7 you can uphold just the decision, right, but you
8 can change the damages and the order however you
9 want.

10 COMM. SLASH: I would like to propose
11 that we uphold, but we change the calculation
12 from front pay to back pay.

13 CHAIRMAN RAMOS: So, a motion is on
14 the table to uphold --

15 (Interpreted.)

16 CHAIRMAN RAMOS: Go ahead; I'm sorry.

17 THE INTERPRETER: I'm sorry.

18 (Interpreted.)

19 CHAIRMAN RAMOS: Comm. Blackburn,
20 Comm. Harrington, did you hear that? The motion
21 was made to uphold the decision of the Judge, but
22 change the back -- change the remuneration [sic]
23 from back pay to front pay.

1 MS. POSEY: So, on page 26 you have
2 the order from the ALJ. So, you must make a
3 decision on the order. So, you can talk --

4 (Interpreted.)

5 MS. POSEY: You also have the briefs
6 from the two parties that discuss their appeals,
7 what they were appealing from this order, and
8 that could -- both of -- all of those things
9 together will help you make your final decision.

10 (Interpreted.)

11 COMM. JACKSON: Mr. Chairman?

12 CHAIRMAN RAMOS: Go ahead,
13 Comm. Jackson.

14 COMM. JACKSON: Do I understand that
15 there's a motion on the floor?

16 COMM. SLASH: There's --

17 CHAIRMAN RAMOS: There's a motion.
18 Again, the motion was to uphold the Director's
19 decision, and we had a question on the front pay/
20 back pay.

21 And do you want to translate that?

22 (Interpreted.)

23 COMM. SLASH: My apology for the

1 confusion. I would like to uphold the order as
2 found.

3 CHAIRMAN RAMOS: Okay. So, we have
4 an amended motion to -- actually it wasn't
5 approved, so we have a motion on the table to
6 uphold the Director's findings.

7 MS. POSEY: The ALJ.

8 CHAIRMAN RAMOS: The ALJ, sorry, the
9 ALJ's findings as so written in the order, and I
10 need a motion to approve the motion.

11 COMM. JACKSON: Second.

12 CHAIRMAN RAMOS: I need a -- well, I
13 need a -- you made the motion, so we have a
14 second, so let's open it for discussion.

15 COMM. JACKSON: I did.

16 CHAIRMAN RAMOS: So, we're opening it
17 for discussion.

18 THE INTERPRETER: I'm sorry; can you
19 repeat that? There is a motion, and then --

20 CHAIRMAN RAMOS: There's a second.

21 THE INTERPRETER: What comes after
22 that?

23 CHAIRMAN RAMOS: Discussion.

1 THE INTERPRETER: I'm sorry; could --

2 COMM. BLACKBURN: Could you clarify

3 the --

4 THE INTERPRETER: -- you repeat
5 again, please?

6 COMM. BLACKBURN: -- the issue with
7 the back pay?

8 CHAIRMAN RAMOS: So, a motion was
9 made to uphold the Direct -- the ALJ's findings,
10 and it was seconded by Comm. Jackson.

11 THE INTERPRETER: Okay.

12 (Interpreted.)

13 CHAIRMAN RAMOS: Comm. Blackburn, you
14 had a question?

15 COMM. BLACKBURN: Yes. Regarding the
16 back pay, I'm not clear if that is included in
17 the motion that is before us.

18 CHAIRMAN RAMOS: On page 25 --

19 THE INTERPRETER: I'm sorry; can you
20 repeat that, because there's a lot of echo? I
21 did not hear her at all.

22 CHAIRMAN RAMOS: Her question was she
23 was not clear on the back pay.

1 COMM. BLACKBURN: Correct.

2 CHAIRMAN RAMOS: Do you want to
3 translate that?

4 (Interpreted.)

5 CHAIRMAN RAMOS: On page 25 of the
6 orders, it shows the calculations that were put
7 into place that came to the amount of 76,000.

8 (Interpreted.)

9 CHAIRMAN RAMOS: Did you find that,
10 Comm. Blackburn?

11 (Interpreted.)

12 CHAIRMAN RAMOS: There is no front
13 pay. It is all back pay.

14 THE INTERPRETER: You said, "There is
15 no front --"

16 CHAIRMAN RAMOS: Yes, there is no
17 front pay. It's all back pay.

18 (Interpreted.)

19 CHAIRMAN RAMOS: Comm. Blackburn, did
20 you find that?

21 COMM. BLACKBURN: Yes.

22 CHAIRMAN RAMOS: Do you have any
23 further questions?

1 COMM. BLACKBURN: No. Thank you.

2 CHAIRMAN RAMOS: Comm. Jackson, do
3 you have any questions?

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

5 CHAIRMAN RAMOS: Comm. Harrington?

6 COMM. HARRINGTON: No.

7 CHAIRMAN RAMOS: Comm. Slash?

8 COMM. SLASH: (Shook head no.)

9 CHAIRMAN RAMOS: Motion has been made
10 and seconded to uphold the ALJ's findings. All
11 those in favor, signify by saying aye.

12 Comm. Jackson?

13 COMM. JACKSON: Aye.

14 CHAIRMAN RAMOS: Comm. Blackburn?

15 COMM. BLACKBURN: No.

16 CHAIRMAN RAMOS: Comm. Harrington?

17 COMM. HARRINGTON: Aye.

18 CHAIRMAN RAMOS: Comm. Slash?

19 COMM. SLASH: Aye.

20 CHAIRMAN RAMOS: And I say aye as
21 well. The motion carries.

22 THE INTERPRETER: Pardon?

23 CHAIRMAN RAMOS: And that includes

1 the renumeration; correct?

2 COMM. SLASH: Correct. For the
3 record, though, can we say that we are -- can we
4 make a ruling on the supplemental brief, that we
5 are not including it?

6 CHAIRMAN RAMOS: The decision's been
7 made that it doesn't get included; right? If we
8 uphold the --

9 MR. HEALY: For purposes of appeal,
10 it is necessary to rule on Mr. Pettygrove's
11 motion, and if his motion is granted, then I have
12 the right to make an offer of proof, and it's
13 reversible error to refuse to allow me to make
14 that offer of proof, I'm sorry to say.

15 CHAIRMAN RAMOS: All right.

16 Mr. Pettygrove, would you please reiterate
17 your motion again?

18 MR. PETTYGROVE: Well, it's
19 Complainant's motion. We're objecting to it.

20 MS. POSEY: Uh-huh.

21 CHAIRMAN RAMOS: Your motion was to
22 submit the additional information?

23 MR. HEALY: Yes.

1 CHAIRMAN RAMOS: And yours is -- has
2 objected to that?

3 MR. PETTYGROVE: (Nodded head yes.)

4 CHAIRMAN RAMOS: So, we need a motion
5 on both of those, one to approve and one to --
6 then advice?

7 MS. POSEY: So, you've already
8 approved the initial findings of fact, conclusion
9 of law and order from the Administrative Law
10 Judge. You have this pending motion here. What
11 happens now is, after this case goes on appeal to
12 the Court of Appeals, they have to know from
13 the -- if the Commission accepted the additional
14 supplemental information or not, and then they
15 can -- they will take that into account.

16 If you don't accept the information based
17 on his objection, then he is going to make an
18 offer of proof, which means he's just going to
19 speak into the record, so that when it goes to
20 the Court of Appeals, they'll have the
21 information.

22 CHAIRMAN RAMOS: Okay. Can you
23 paraphrase that in two sentences for our

1 translator?

2 MS. POSEY: You -- the Commission
3 will approve the motion from the Complainant or
4 sustain the objection from the Respondent, and
5 that information will help the Court of Appeals
6 make a decision.

7 MR. PETTYGROVE: I don't want to get
8 on anybody's nerves. If I can --

9 CHAIRMAN RAMOS: Let her translate
10 first.

11 THE INTERPRETER: I'm sorry; I can't
12 hear you very clearly.

13 CHAIRMAN RAMOS: So, the discussion
14 is to approve the motion from the Complainant,
15 which is Ms. Yufen, to submit additional
16 information, and Respondent has objected to that
17 motion.

18 THE INTERPRETER: Uh-huh.

19 (Interpreted.)

20 CHAIRMAN RAMOS: We need a motion
21 to --

22 MR. PETTYGROVE: I apologize.

23 CHAIRMAN RAMOS: Go ahead.

1 MR. PETTYGROVE: So, the Commission
2 just voted four to one to affirm the ALJ's
3 decision on the record before it. That's the
4 Commission's vote. A motion to submit additional
5 evidence after you've made your decision is
6 asking to put additional evidence into the record
7 after you made your decision. I think that's
8 actually procedurally improper.

9 To the extent you want to consider
10 additional evidence, I think you need to undo the
11 four to one, reopen the record, give us a chance
12 to respond, and then revote one way or the other.
13 But typically, once the Commission's made a
14 decision on the merits, final, disposes of
15 everything, the winning side doesn't get to say,
16 "Here's a bunch more stuff we want to put in the
17 record for the Court of Appeals."

18 COMM. HARRINGTON: For the --

19 CHAIRMAN RAMOS: Director? We'll let
20 the Direct -- I'm sorry we can't translate all of
21 that, because we're trying to understand this.
22 Procedurally --

23 MR. HEALY: May I respond? We are

1 not the winning side.

2 MS. POSEY: Okay. We're not going to
3 take this -- we're not going to redo the
4 argument.

5 MR. HEALY: Well, I just want -- I
6 just want to be able to make my offer of proof in
7 the event that this motion to submit is denied,
8 and I asked that it be done before the vote,
9 because the record's going to have to state on
10 appeal that I made the offer of proof.

11 MS. POSEY: So, the Commission has
12 made a decision to uphold the ALJ's findings.
13 Either you guys are done or you take that back
14 and, like they both said, reopen it. So, it's up
15 to the Commission at this point.

16 CHAIRMAN RAMOS: Commissioners, we
17 either have to reverse our decision and open it
18 or uphold the decision we've already made.

19 Do you want to translate that quickly?

20 THE INTERPRETER: I'm sorry; which
21 part do you want me to translate?

22 CHAIRMAN RAMOS: Just the -- the
23 objections [sic] on the table are whether to

1 reverse our decision of upholding and reopen to
2 provide additional information.

3 (Interpreted.)

4 CHAIRMAN RAMOS: Commissioners,
5 reverse and open or uphold and -- and confirm?
6 Discussion?

7 (Interpreted.)

8 COMM. SLASH: I move that we uphold
9 and close the record, and we continue as --

10 CHAIRMAN RAMOS: I don't guess we
11 need a motion on that, do we?

12 MS. POSEY: (Shook head no.)

13 CHAIRMAN RAMOS: So --

14 (Interpreted.)

15 CHAIRMAN RAMOS: All right. So,
16 we -- so, the decision is final from the vote of
17 four to one to uphold the ALJ's decision and
18 recommendation in the case of He versus Belterra.

19 COMM. SLASH: And to keep the record
20 closed and to not accept the --

21 CHAIRMAN RAMOS: And to keep the
22 record closed at this point.

23 MR. HEALY: Is my motion to make an

1 offer of proof being denied, just for appellate
2 purposes, to preserve it for -- on appeal?

3 THE INTERPRETER: I'm sorry; can I
4 just translate what happened first, before there
5 is all of the discussion?

6 MR. HEALY: Do I have --

7 THE INTERPRETER: Is it okay if the
8 interpreter go ahead and just say what you just
9 decided, because it's four to one, so the
10 decision of ALJ is upheld, and also will not
11 accept any new information; right?

12 CHAIRMAN RAMOS: That is the -- that
13 is the question at this point. Counsel Healy
14 is --

15 THE INTERPRETER: Oh, okay. So --

16 CHAIRMAN RAMOS: For the record, a
17 decline of additional information, so --

18 MR. HEALY: I'm making -- I wish to
19 make an offer of proof to demonstrate on appeal
20 what it is that's contained in my -- in my motion
21 that we felt should have been considered by the
22 Commission. I'm not asking the Commission to
23 reconsider, but I'm asking that the offer of

1 proof be made. The Court of Appeals will have
2 to --

3 (Interpreted.)

4 CHAIRMAN RAMOS: All right. So,
5 the -- so, we need an official -- I don't know if
6 we need a motion, but I guess we do, because we
7 need to either approve or decline. So, we need a
8 motion to approve or deny the request from
9 counsel to provide the additional proof of
10 evidence.

11 MR. HEALY: It's called an offer of
12 proof, Your Honor --

13 CHAIRMAN RAMOS: Offer of proof.

14 MR. HEALY: -- and it's pursuant to
15 Nelson versus State, which states reversible
16 error for the Judge to refuse it.

17 COMM. HARRINGTON: A point of
18 process. I don't know that we need to vote. I
19 don't know that after a decision has been made,
20 you go further. So, it just has to be taken at
21 the next level.

22 CHAIRMAN RAMOS: Yeah.

23 COMM. HARRINGTON: Because the

1 decision has been made on the case.

2 MR. HEALY: This is the Indiana Rules
3 of Trial Procedure. I have underlined --

4 MR. PETTYGROVE: Do you have a copy?

5 MR. HEALY: I'll give you that as
6 soon as he's done.

7 MR. PETTYGROVE: What rule are you
8 citing to?

9 CHAIRMAN RAMOS: And I will read it.

10 MR. PETTYGROVE: What rule are you
11 citing to?

12 CHAIRMAN RAMOS: It's 4.02,
13 Chapter 4, "Offer of Proof."

14 MR. HEALY: Can Mr. Pettygrove see
15 that, too?

16 CHAIRMAN RAMOS: So, it does allow
17 for it.

18 MR. PETTYGROVE: These are not Rules
19 of Court or Rules of Evidence. This is a
20 lawyer's treatise, and the rule that Mr. Healy is
21 citing to applies during trial, when the record's
22 open. I agree it would be error to decline an
23 offer of proof during trial. The trial ended in

1 February. Once the record's closed, no more
2 evidence gets put in unless you reopen the
3 record.

4 Thank you.

5 CHAIRMAN RAMOS: Countercomment,
6 Mr. Healy?

7 MR. HEALY: Again, I don't wish to
8 take more time than is necessary. It would just
9 be a brief statement of what I wished to put into
10 the record.

11 CHAIRMAN RAMOS: We would have to
12 cite ICRC rules and regulations to fully
13 comprehend that we are not a court of -- we're
14 not, you know, a jury.

15 MR. HEALY: Again, 910 IAC 1-11-2,
16 under "Reopening Hearings."

17 (Pause in proceedings.)

18 CHAIRMAN RAMOS: That basically
19 affirms what Mr. Healy has stated. Would you
20 like to review that, Mr. Pettygrove?

21 MR. PETTYGROVE: I'm familiar with
22 that regulation. You absolutely have the
23 authority to reopen the record.

1 COMM. SLASH: But we closed it.

2 MR. PETTYGROVE: But you have to
3 reopen the record to hear additional evidence.

4 CHAIRMAN RAMOS: Yeah, it states that
5 the Commission, on its own motion or upon motion
6 of any party, reopen the proceeding to receive
7 further evidence or argument, which essentially
8 reopens the case. So, the Commission has already
9 made the recommendation, and we will deny the
10 request, so the motion's ended.

11 COMM. SLASH: Okay.

12 CHAIRMAN RAMOS: Thank you both for
13 your time.

14 MR. PETTYGROVE: Thank you all.

15 CHAIRMAN RAMOS: If you would like to
16 translate any of that, the net is we've, again,
17 upheld the decision that was made. No further
18 evidence is being allowed to be submitted.

19 MR. HEALY: Thank you, Your Honor.

20 (Interpreted.)

21 (Discussion off the record.)

22 CHAIRMAN RAMOS: Let's take a brief
23 recess to allow the next parties for argument to

1 get set up, please. We'll take ten minutes.

2 (Recess taken.)

3 CHAIRMAN RAMOS: We will resume.

4 I didn't get the time for the last one, but
5 it's 2:54. We are still in quorum. On the phone
6 is Comm. Blackburn, and then present is
7 Comm. Harrington, Comm. Slash and myself.
8 Comm. Jackson had to drop for another meeting.

9 The next item on the agenda as a part of
10 the ALJ Decisions and Orders is the hearing -- or
11 the public arguments in the case of Mr. Terry
12 Lymon and the UAW Local Union 2209. So, the
13 procedure that we're going to follow is that we
14 will have argument discussion, so you'll each
15 get 15 minutes, and then we'll have five minutes
16 of rebuttal. Are there any questions on those
17 points?

18 (No response.)

19 CHAIRMAN RAMOS: I'm happy to not
20 have to translate that, so all right. Do we have
21 a preference of who wants to go first?

22 (No response.)

23 CHAIRMAN RAMOS: We'll allow

1 Complainant to go first, then.

2 MR. HICKS: And could I, Comm. Ramos,
3 because I don't want to interrupt him during his
4 oral argument to object, but in his objections,
5 he cited an Amy Reveal, and he cited evidence
6 regarding Amy Reveal to support his objections.
7 Amy Reveal did not testify at the ALJ's hearing.
8 No evidence was entered into the record
9 regarding --

10 MR. LYMON: Well, I was going to
11 bring that up just now.

12 MR. HICKS: -- regarding Amy Reveal,
13 so obviously -- she was subpoenaed to testify --

14 MR. LYMON: Her name was read into
15 the record.

16 CHAIRMAN RAMOS: That can be a part
17 of your 15 minutes; okay, when you get -- and you
18 can make comments on all of that.

19 MR. HICKS: Well --

20 CHAIRMAN RAMOS: All right. Sir, we
21 will go ahead.

22 And we have a timer?

23 MR. DYER: Yeah.

1 MR. LYMON: Well, I'm requesting,
2 first of all, that some other evidence be heard.

3 CHAIRMAN RAMOS: Identify yourself,
4 please.

5 MR. LYMON: Terry Lymon, L y m o n.

6 CHAIRMAN RAMOS: Thank you.

7 MR. LYMON: And this is -- I'm
8 requesting that the Commission, pursuant to
9 IC 4-21.5-2-28, subsection (e), and Indiana
10 Code 910 IAC 1-11-2, that they open the hearing
11 to receive -- to hear additional evidence. This
12 evidence, all of it, it out of the blue book in
13 which, in the hearing, Mr. Healy requested that
14 it be added in as evidence, but there was an
15 objection based on -- based on the voluminous of
16 the blue book.

17 There were about 150 exhibits that he
18 wanted to have entered, and Mr. Hick's had an
19 objection to it based on it being too voluminous.
20 But all of the exhibits that Mr. Hicks submitted
21 and all of the exhibits that the Complainant
22 submitted were out of this blue book.

23 And the predominancy of the records -- the

1 extra exhibits I'm requesting that you hear --
2 are out of that book, I would say two to three of
3 them, and one of them is an affidavit from a
4 similarly situated Caucasian male, Mark Burbrink,
5 who I had the opportunity to locate and got an
6 affidavit explaining that he was sent Certified
7 mail. That is one of the pieces of evidence that
8 I would like for the Commission to hear.

9 And a letter from Bob King -- and they're
10 all -- again, they'll all in the book -- and then
11 the one that Mr. Healy -- I mean Mr. Hicks is
12 referring to is an article, and the Certified
13 letter that Amy Reveal was sent, and her name was
14 read into the record by Mr. Healy as being a
15 witness for the Complainant. The subject had an
16 emergency and could not make the hearing, but her
17 name was read into the record as being a witness.

18 And I testified to Exhibit 42, which was a
19 complaint dated 10-6-2004 at this hearing, and
20 how it did not get submitted in as evidence, I do
21 not know, but I did testify to this document, and
22 that is one of the documents that I am asking
23 also to be considered.

1 And another one of the documents is a
2 letter, a Certified letter, that came from the
3 UAW Local 2209 to myself. What this document is
4 going to prove is that deceit, collusion and
5 trickery was used to prevent the Complainant,
6 myself, from knowing exactly what was going on
7 with my grievance. And in reference to this
8 document, it will reference that there were two
9 appeal hearings for the same grievance.

10 Now, the two appeal hearings -- this
11 hearing was not a real hearing. It was used to
12 deceive me, to make me believe that it was an
13 appellate hearing, but I learned later on that
14 the grievance was still open. So, if they knew
15 that the grievance was still open, why did they
16 have an appeal hearing in 2004, November 18th of
17 2004, and then another one June 29th of 2011?
18 That shows collusion and proves collusion between
19 General Motors and the management, and this
20 document will corroborate those facts, and I'm
21 asking that that document also be considered.

22 And then, of course, the article, which
23 will prove -- ostensibly prove that one of the

1 subjects, the shop chairman in question, Rich
2 Letourneau, proves to be in collusion with
3 management, because she -- Amy Reveal, that is,
4 who was sent the Certified letter and brought
5 back to work, when she went back to work, they
6 terminated her again, and she texted Rich
7 Letourneau.

8 And these texts that came back proves that
9 she -- that Rich Letourneau was texting
10 management, and some of the things that he was
11 texting to management are very revealing in
12 showing and proving that there is some collusion
13 and complicity going on with the UAW Local 2209
14 and General Motors management.

15 (Discussion off the record.)

16 CHAIRMAN RAMOS: Okay. I mean we're
17 listening to what you have to say, and we --

18 MR. LYMON: Right.

19 CHAIRMAN RAMOS: -- will make our
20 decisions on that.

21 MR. LYMON: Okay. Well, I've got --
22 I'm asking that the documents be considered, yes.

23 CHAIRMAN RAMOS: The information that

1 was provided has to be provided to the ALJ on a
2 timely basis. There's a structure and process
3 for all of that. That decision's already been
4 made. We're listening to arguments, if that
5 would help to change that. I'm not -- I mean
6 we'll listen to -- if you're done, then we'll go
7 to Mr. Hicks to listen to his points. You each
8 have counter options, then we will make our
9 decision.

10 MR. LYMON: Well, yeah, I'm
11 understanding that, but it took no submission on
12 my end, pursuant to the two statutes that I just
13 gave you. The Commission has that authority to
14 do it if one of us submitted something, or if the
15 Commission wanted to open it up on its own, it
16 has that authority. So, there wasn't a
17 requirement for me to submit anything. I just
18 need to bring the documents, and it was at your
19 discretion, at the Commission's discretion, as to
20 whether or not they wanted to hear it.

21 CHAIRMAN RAMOS: Again, through the
22 investigative process, that's where all of the
23 evidence needed to be submitted. I mean after

1 the fact, it is after the fact. So, I mean is
2 there anything else that you would like to
3 discuss?

4 MR. LYMON: Well, I'm asking you. I
5 mean is --

6 COMM. SLASH: Did you -- did you
7 attempt to submit the additional things to the
8 ALJ prior to this hearing for us to consider
9 accepting in the proper amount of time? Because
10 you had notice prior to today's oral argument so
11 we could have considered your evidence prior to
12 today.

13 MR. LYMON: I did submit something to
14 the ALJ to be considered --

15 COMM. SLASH: Are the items in --

16 MR. LYMON: -- regarding these
17 documents.

18 COMM. SLASH: Are the items in -- but
19 did you include the documents?

20 MR. LYMON: No, I didn't.

21 COMM. SLASH: Okay. So, that would
22 have been where you had to do those. You would
23 have had to include them at that time for us to

1 then have as a part of the record.

2 MR. LYMON: Well, am I not
3 understanding this Administrative Code 1-11-2,
4 which state at any time at a hearing has been --
5 after a hearing has been closed but prior to a
6 final determination, the Commission may, on its
7 own or on the motion of any party, reopen the
8 proceedings and receive further evidence or
9 argument.

10 You guys have that -- according to this
11 statute, you guys have that power. It didn't
12 take a submission of evidence to the ALJ to get
13 it considered. You have that authority,
14 according to this statute, to either -- to make a
15 decision whether or not to hear the additional
16 documents or not. That's the point that I'm
17 making. You --

18 COMM. SLASH: Correct. But you could
19 have submitted them to the ALJ prior to today for
20 us to accept or deny prior to today, so that we
21 could include them in our conversation today.

22 MR. LYMON: Well, he just -- well,
23 Mr. Hicks just gave me something in response to

1 that, and I did not receive it, and I'm sure you
2 didn't, either. And I submitted something, and
3 I'm sure you didn't get it, so I mean --

4 COMM. SLASH: You submitted, but did
5 you not include the actual evidence?

6 MR. LYMON: No, I did not conclude
7 [sic] the documents.

8 COMM. SLASH: Okay. At that time
9 would have been your time to include the
10 documents.

11 MR. LYMON: But I'm still not
12 understanding what you're saying, because the
13 statute here says that it's not necessary, that
14 you have the latitude --

15 COMM. HARRINGTON: Well, we can, but
16 there's -- it's based on grounds, so there's been
17 nothing provided to us that would make us say,
18 "We need additional information." There's no
19 grounds. You're just coming in saying, "You have
20 the ability." Yes, we do, but there's been no
21 information provided to say why would we do that.
22 So, you're asking us to make a decision because
23 we have the authority, but not giving a reason to

1 the why we would.

2 MR. LYMON: Well, I'm explaining -- I
3 think I just explained every -- I can explain
4 every document to you and how it's relevant to
5 the case, and that is what -- but this statute
6 does not denote -- it does not say that I had to
7 submit something. It says that the -- and that's
8 what I'm acting on. It said that the Commission
9 has the authority to hear additional evidence.

10 COMM. HARRINGTON: So, you can state
11 why you think we should see it, and then we'll --

12 MR. LYMON: I did state that, yes.
13 Here's a copy of it. I did state --

14 COMM. HARRINGTON: Okay.

15 MR. LYMON: -- the reasons why I
16 thought it should be heard.

17 COMM. HARRINGTON: And he's asking
18 did you -- have you stated your full case of why
19 you want us to consider the additional
20 information? Because that's what this hearing is
21 for.

22 MR. LYMON: Stated --

23 CHAIRMAN RAMOS: We're going to

1 listen to all parties --

2 COMM. HARRINGTON: To why you --

3 CHAIRMAN RAMOS: -- before we make a
4 decision.

5 COMM. HARRINGTON: -- want us to look
6 at additional information.

7 MR. LYMON: For these very reasons.
8 It corroborates and proves the facts of collusion
9 and race discrimination, as I wrote in the --
10 when I submitted this to the Docket Clerk, the
11 reasons why I asked for the documents to be
12 considered.

13 COMM. SLASH: And why didn't you
14 include them as attachments when you submitted
15 that?

16 MR. LYMON: Well, I didn't think that
17 I needed to, being that you guys, you had the
18 authority to make the decision. And when I've
19 given you the reasons why I'm asking to be -- for
20 it to be submitted, then I thought you'd read it
21 and just render a decision.

22 If it's relevant and if it's going to
23 be -- because the issue and the primary objective

1 here is to get to the truth of the facts: Was
2 there discrimination and was there collusion or
3 was there not?

4 And if I have documents that can
5 corroborate the points that I'm making, I
6 denote -- I made sure that I denoted all of them
7 in here, in the -- in my submission, and that is
8 why I am here again now submitting this and
9 giving you the reasons why I think these
10 documents should be submitted.

11 CHAIRMAN RAMOS: So, you were working
12 with Mr. Bremer; is that correct, or --

13 MR. LYMON: Pardon?

14 CHAIRMAN RAMOS: Who was the counsel
15 that was assigned to --

16 MR. HICKS: Healy.

17 CHAIRMAN RAMOS: Mr. Healy?

18 MR. LYMON: Mr. Healy.

19 CHAIRMAN RAMOS: All right. And why
20 isn't he with you now?

21 MR. LYMON: The -- he said that they
22 weren't going to pursue it, the issue, the case.

23 CHAIRMAN RAMOS: Did you provide any

1 additional information to Mr. Healy?

2 MR. LYMON: I did.

3 CHAIRMAN RAMOS: And his response
4 was?

5 MR. LYMON: He just instructed me on
6 what to do.

7 CHAIRMAN RAMOS: Okay. Any further
8 discussion?

9 MR. LYMON: Regarding what?

10 CHAIRMAN RAMOS: Again, you have an
11 opportunity to discuss, then we will pass it to
12 Mr. Hicks.

13 MR. LYMON: Well, I'm discussing
14 these documents. I mean I'm -- you know, I'm
15 emphatically trying to stress that I think that
16 they are extremely important in showing you,
17 because Mr. Burbrink is one of the ones -- on
18 June 15th, 2007, when my grievance was withdrawn
19 without prejudice, Mr. Burbrink's grievance -- he
20 was sent a Certified letter informing him to
21 return to work upon conditions of employment, and
22 he's a similarly situated white male. He was
23 called back to work.

1 I was -- my grievance was withdrawn, on
2 the very same day, and I think this is really
3 pertinent information that proves that the --
4 that all of the -- the conclusions of law that
5 the ALJ stated, that it -- there was no
6 connection in race, when there was ample examples
7 of how it was race related, so -- and this right
8 here, this document is proof positive.

9 CHAIRMAN RAMOS: Okay.

10 MR. LYMON: So, you're saying that I
11 have only 15 minutes to state a case?

12 CHAIRMAN RAMOS: You've had a lot of
13 opportunity to provide that, including with
14 Mr. Healy, so that's when you had the
15 opportunity. We --

16 MR. LYMON: I'm talking about now.
17 I'm talking about now --

18 CHAIRMAN RAMOS: Yeah.

19 MR. LYMON: -- to present the case.
20 You're saying that I only have 15 minutes to
21 present all of this evidence.

22 CHAIRMAN RAMOS: For this -- for us,
23 a decision to make as in regards to upholding the

1 decision made, it is. I mean you had the --

2 MR. LYMON: Well, there was twenty --
3 I had twenty-something objections of -- there
4 were conclusions of law and findings of facts
5 that I oppose, and I had the documents to prove
6 that --

7 CHAIRMAN RAMOS: And again, they were
8 not submitted.

9 MR. LYMON: -- that she erred.

10 CHAIRMAN RAMOS: From a timing
11 standpoint, there was -- you missed the timing
12 deadline.

13 MR. LYMON: How did I miss the timing
14 deadline?

15 CHAIRMAN RAMOS: So, when you -- this
16 was the conversation that Comm. Slash had. So,
17 you provided the information that's relevant
18 to --

19 MR. LYMON: You're talking about the
20 documents. I'm talking about -- having entered
21 now. I'm talking about all of the information
22 that you're asking me to submit information on
23 and submit a case on in 15 minutes. That's what

1 I'm asking you.

2 CHAIRMAN RAMOS: Our -- this provides
3 you an opportunity to address the concerns of why
4 your case should be reversed, all right, with the
5 information that we have. It isn't opening the
6 whole case to review all of that. We do not
7 investigate. That is not our role. Our role is
8 to make --

9 MR. LYMON: I understand.

10 CHAIRMAN RAMOS: -- a decision.

11 MR. LYMON: I understand. I was just
12 asking that six documents be entered as evidence.
13 Okay. All right. Fine.

14 (Discussion off the record.)

15 MR. LYMON: So -- so, now what?

16 CHAIRMAN RAMOS: So, now we listen to
17 the counterpoints from Mr. Hicks. So, we won't
18 make a decision until we get through all of this.

19 MR. LYMON: Okay. All right.

20 CHAIRMAN RAMOS: And you're yielding
21 your last minute?

22 MR. LYMON: Well, there ain't enough
23 time to even scratch the surface of what has

1 transpired and things of this nature, so I might
2 as well.

3 CHAIRMAN RAMOS: Mr. Hicks.

4 MR. HICKS: Thank you.

5 CHAIRMAN RAMOS: Identify your name
6 for --

7 MR. HICKS: Sure.

8 CHAIRMAN RAMOS: -- the record.

9 MR. HICKS: Sure. I'm Rob Hicks.
10 I'm the attorney for the only Respondent in this
11 case, and that's Local 2209.

12 It's stipulated and undisputed that
13 Mr. Lymon contended in his ICRC complaint that
14 the Local discriminated against him on the basis
15 of his race in connection with a grievance that
16 it withdrew in 2007 to challenge his termination
17 of 2004, and an appeal that he filed to challenge
18 the Local Union's decision to withdraw his
19 grievance that he filed in May of 2011, and that
20 he knew that the Local had denied in July
21 of 2011.

22 And I just want to make three broad
23 points. These are the reasons that we contend

1 that the ALJ's decision should be affirmed and
2 that the Commission should enter its final order.

3 Number one, as the ALJ properly concluded,
4 there is no evidence that Local 2209 withdrew
5 Mr. Lymon's grievance because of his race, and
6 then there's also no evidence that the Shop
7 Committee denied his appeal because of his race.
8 So, the central finding of Judge Ryker was
9 Mr. Lymon did not carry his burden of proving
10 race discrimination, and we contend that that
11 decision should be affirmed.

12 We also filed our own objections, because
13 we take issue with other aspects of the Judge's
14 decision. Number one, we view Mr. Lymon's
15 complaint as untimely. In fact, we think it's
16 well untimely. As you all know, under the
17 Indiana Code you have six months, or 180 days, to
18 file a discrimination charge.

19 Mr. Lymon has admitted that he knew in
20 April of 2011, at least no later than April
21 of 2011, that the Local had denied his grievance
22 and withdrawn his grievance, and he also has
23 admitted on the record that he knew no later than

1 July of 2011 that the Local had denied the appeal
2 challenging the withdrawal of the grievance. His
3 complaint was filed April 23rd, 2012, and it's
4 clearly untimely under the law.

5 And the third point that I want to make in
6 my time is that Mr. Lymon received everything
7 that he was entitled to receive. He was
8 terminated from GM after there was a dispute over
9 whether he could perform a job. The Union
10 invoked the contractual procedure that allows for
11 an Independent Medical Examiner to determine
12 whether he can perform the job.

13 Mr. Lymon had the IME. The Independent
14 Medical Examiner issued, under the contract
15 between the Union and GM, the final and binding
16 decision -- and it's final and binding on
17 Mr. Lymon, the Union and the company -- that
18 Mr. Lymon could perform the --

19 That can't be right.

20 COMM. HARRINGTON: No, it's not
21 right.

22 CHAIRMAN RAMOS: He just started.
23 Okay. So, he's still got --

1 MR. HICKS: Okay. I'm sorry. Never
2 mind.

3 CHAIRMAN RAMOS: It's 11:45.

4 MR. HICKS: All right. I apologize.
5 That threw me off for a second. But Mr. Lymon
6 had an Independent Medical Exam. The Independent
7 Medical Examiner issued the final and binding
8 decision that he could perform the job.
9 Mr. Lymon never returned to work.

10 The Union still filed yet another
11 grievance on his behalf, processed that grievance
12 for three years, and decided that it couldn't
13 pursue it any further because GM wasn't going to
14 budge, they weren't going to reinstate him, and
15 they were relying on that language in the
16 contract that says the decision is final and
17 binding.

18 Four years later, after not turning up at
19 all for 2008, 2009 and 2010, Mr. Lymon asked
20 about his grievance. He was told then, again,
21 that the grievance had been withdrawn. He filed
22 an appeal under the UAW Constitutional procedure
23 that allows for decisions like the withdrawal of

1 grievances to be challenged.

2 And he appealed that all of the way up
3 through every rung of the appeals procedure, and
4 ultimately, an independent body, the Public
5 Review Board, that doesn't include any Local
6 Union or International Union members, decided
7 that his appeal had no merit, because the Union
8 properly withdrew his grievance and did not
9 harbor any hostility towards him. So, his case
10 is, quite frankly, moot. He got everything he
11 was entitled to receive, and then some.

12 So, again, you know, I'll give you a
13 little bit more background information, then
14 circle to me -- circle back to my argument since
15 I have the time. As I stated, Mr. Lymon worked
16 at the GM Fort Wayne Assembly Plant. The Local
17 represents employees at that plant as well as
18 employees as other plants.

19 During the summer of 2004, Mr. Lymon was
20 on sick leave. GM called him back to work.
21 Mr. Lymon contended that the job he was assigned
22 to by GM, that was inconsistent with his medical
23 restrictions. He returned to work, but he didn't

1 do the job, so a GM officer said, "Look, you've
2 got two options: You can either work the job or
3 you can be fired."

4 Five days later, under the contract,
5 Paragraph 64(d), they said -- they terminated him
6 because he had not reported to work in five days,
7 and to actually work, and he had therefore
8 relinquished his seniority. The Union then, as I
9 said earlier, invoked Paragraph 43(b) of the
10 contract.

11 That paragraph allows for an Independent
12 Medical Exam, and as I stated -- and this is in
13 Stipulated Exhibit 2, page 35 -- the decision of
14 the Independent Medical Examiner is, quote, final
15 and binding on the Union, the employee involved,
16 and the Corporation.

17 Mr. Lymon participated in the Independent
18 Medical Exam, and the Union had a deal in place
19 with GM where, if the Independent Medical
20 Examiners found that the job was inconsistent
21 with his restrictions, then they would reinstate
22 Mr. Lymon. Unfortunately for Mr. Lymon, the
23 Independent Medical Examiner issued the final and

1 binding decision that he could do the job, and
2 yet he never returned to work.

3 So, Mr. Lymon was still upset with the
4 decision. He asked the Union to file another
5 grievance, a written grievance, which is in the
6 record as Stipulated Exhibit 7, and that's this
7 grievance. That grievance challenged his
8 termination. It's undisputed that for three
9 years the Union attempted to return Mr. Lymon to
10 work, and it's undisputed that GM would not allow
11 Mr. Lymon to return to work, relying on that
12 final and binding language.

13 So, in June of 2007, the Shop Chair, Dave
14 Matthews, withdrew the grievance, and he -- and
15 that was the end of it; okay? Now, Mr. Matthews
16 contends that he called -- that Mr. Lymon and him
17 talked on the telephone. Mr. Lymon contends that
18 he never spoke with Mr. Matthews about the --
19 about the decision to withdraw the grievance.

20 But what we do know is Matthews leaves the
21 plant in April of 2008, and there's no evidence
22 that Mr. Lymon follows up on his grievance until
23 April of 2011. And at that time, he was

1 informed, in both writing and orally, that his
2 grievance had been withdrawn.

3 So, the UAW Constitution, as I said, has
4 an internal appeals procedure. It allows for
5 decisions like the withdrawal of grievances to be
6 challenged, but appeals have to be filed within
7 60 days of the date that the employee either knew
8 or reasonably should have known of the decision
9 that they're appealing. So, Mr. Lymon filed a
10 griev -- an appeal with Local 2209, challenging
11 the withdrawal of his grievance.

12 And the Local Shop Committee, which did
13 not include Mr. Matthews, decided that "Look, we
14 don't know if you're telling the truth or if
15 Matthews is telling the truth, but either way,
16 your appeal is untimely, because you had 60 days,
17 and that's not from the date that you knew, it's
18 also from the date that you reasonably should
19 have known. And you're now coming back after at
20 least four years, and most likely seven years, to
21 check on your grievance."

22 So, Mr. Lymon continued to appeal his
23 case, as I said. He pushed it all of the way up

1 to the Public Review Board. The Public Review
2 Board could have reinstated his grievance, it
3 could have ordered the payment of back pay, but
4 it didn't do so.

5 And it didn't do so not only because the
6 grievance -- the appeal was clearly untimely, but
7 it also did so because after hearing evidence
8 from Mr. Lymon, it determined that the Local
9 Union properly withdrew his grievance, and its
10 decision was, quote, so clearly rational and that
11 it did not harbor any hostility or exhibit any
12 hostility towards Mr. Lymon. That's in the order
13 as Stipulated Exhibit 27.

14 So, again, three arguments. There is no
15 race discrimination. That's what the Judge
16 found. Lymon's own admissions during the hearing
17 support that finding. I have the transcript
18 cites here, but in the interest of time, I'll
19 just read them to you.

20 Page 396, line 8 to 17 of the hearing
21 transcript: Question: "...as we sit here today,
22 you can't identify a single employee who the
23 Local Union handled a grievance differently in

1 connection with any of the possible reasons...you
2 were terminated?" Lymon's answer: "Well, I'm
3 trying to understand how it relates to my
4 being -- why I was terminated, but no, as to your
5 question."

6 In addition, page 420 of the transcript,
7 lines 5 to 16, my question to Mr. Lymon:
8 "...going back to the Local Union's decision to
9 deny your appeal, you don't have any evidence
10 that the Local Union handled an appeal, a similar
11 appeal, differently for a Caucasian employee;
12 correct?" Mr. Lymon's answer is on line 16:
13 "No."

14 Mr. Lymon also made a contention that he
15 should have gotten written notice about the
16 withdrawal of his grievance, but yet he admitted
17 at the hearing that he didn't have any evidence
18 that any Caucasian similarly situated employee
19 received such notice.

20 Line 40 -- excuse me -- transcript page 40
21 [sic], line 8 to the end of the page, and then
22 the first line on page 431, question: "You don't
23 have any evidence that Matthews gave the

1 notification in writing that you contend you were
2 supposed to receive to another white employee;
3 correct?" Lymon's answer: "No, I don't think
4 so."

5 Question: "You don't have any evidence
6 that he sent a letter to a white person that you
7 contend that you should have gotten?" "I
8 don't -- at this point, I don't think so." So,
9 Lymon therefore admitted he has no evidence that
10 the Local Union discriminated against him in the
11 ways that he said that they did.

12 The Judge also relied on other undisputed
13 evidence to support her conclusions that Lymon
14 didn't carry his burden of establishing race
15 discrimination. For example, she found that
16 Matthew -- that the collective bargaining
17 agreement in the Union contract or the Union
18 Constitution did not require employees to be
19 notified of the withdrawal of their grievances,
20 that no policy existed when Lymon's grievance was
21 withdrawn, that there was no evidence that the
22 individual, Matthews, who withdrew Lymon's
23 grievance, sent written notification to any other

1 employees.

2 And then with respect to the Local's
3 handling of his appeal, she found that the
4 seven-member committee reasonably and unanimously
5 concluded that his appeal was untimely, because
6 it should have been filed before May 2011, and he
7 reasonably should have then known that his
8 grievance had been withdrawn more than 60 days
9 before that.

10 And again, just pointing out what the
11 Union did on his behalf. He had a grievance. He
12 had an Independent Medical Exam. He had another
13 grievance. And again, they reasonably concluded
14 that his appeal had no merit because it wasn't
15 filed.

16 I'm going to just briefly go to my other
17 arguments. Timeliness he admits that he knew
18 that the Local Union was done with his appeal in
19 July of 2011. He admits that he knew that they
20 were done with his grievance in April of 2011.
21 It's a six-month statute of limitations.

22 We think the Judge in error applied the
23 continuing violation doctrine. That does not

1 apply to discrete events. That applies to
2 hostile work environment claims, for one, and
3 Mr. Lymon is clearly complaining about discrete
4 events. The withdrawal of his grievance, the
5 alleged failure of giving notice of the grievance
6 and the denial of his appeal. All of those, it's
7 undisputed, occurred and he knew about before six
8 months prior to the filing of his complaint.

9 And in addition, the Judge found there was
10 a continuing violation because she found that the
11 Local Union was called to participate in an
12 international appeals hearing on March 22nd,
13 2012. Well, in Delaware v. Ricks it's well
14 established that an internal grievance procedure
15 does not start a new clock for the filing of
16 charges. In that case, the Supreme Court said
17 the pendency of a grievance or some other method
18 of review of an employment decision does not toll
19 the running of the statute of limitations.

20 Similarly, the Seventh Circuit, in
21 Soignier v. American Board of Plastic Surgery,
22 says that an employee's pursuit of an internal
23 grievance procedure does not affect the date on

1 which his claim accrued. Unlike in an EEOC
2 investigation, internal appeals are not part of
3 the statute -- statutory procedure and do not
4 toll the time for filing suit.

5 So, again, in addition to the fact that
6 there's no race discrimination, we also feel that
7 clearly this is an untimely -- an untimely
8 decision.

9 And that's my time.

10 CHAIRMAN RAMOS: Okay. Are there any
11 questions for Mr. Hicks?

12 (No response.)

13 CHAIRMAN RAMOS: All right.
14 Mr. Lymon, you have five minutes for rebuttal.

15 MR. LYMON: Okay. First of all,
16 there was no grievance written at the time I was
17 terminated. I was terminated July 28th, 2004.
18 While the grievance was written -- was only
19 written until when I -- and there's evidence in
20 the record. 10-6-2004 is the complaint. When I
21 complained to Janet, who was a manager in
22 Detroit, Michigan, she called the plant, and
23 after I called her on October 6th, then

1 October 11th, a grievance was written.

2 So, I went all of the way through the
3 grievance process -- and I'll get to the point of
4 racial discrimination -- I went all of the way
5 through the grievance process with no grievance
6 written. Jonathan Burget had a grievance
7 written. Mark Burbrink had a grievance written.
8 Amy Reveal had a grievance written. I had no
9 grievance written. I went all of the way, Step
10 One, Step Two, Step Three, all of the way through
11 the grievance procedure, no grievance in place.

12 The appeal. The appeal did not settle
13 sort of anything. They acted on "reasonably
14 should have become aware." Well, no one in the
15 plant would communicate with me. They've tricked
16 me and made me think that there were two
17 different appeals, so I didn't know what stage
18 the grievance was. And by the National Labor
19 Relations Act, it states that it must be -- the
20 grievant must be known and kept apprised of
21 what's going on with the grievance. Another
22 point of racial discrimination.

23 Now, the grievance being untimely. Again,

1 how could I know? The grievance sat for three
2 years and they did nothing, absolutely nothing.
3 They didn't do anything with it. And then on
4 June 15th, 2007 they decide to withdraw the
5 grievance. Dave Matthews did, Shop Chairman.

6 Now, at the same time, Mark Burbrink, a
7 similarly situated white Caucasian male --
8 Caucasian male; I'm sorry -- on -- well it's in
9 the record, Stipulated Exhibit A, his grievance,
10 they sent him a Certified letter and returned him
11 to work. Dave Matthews went back to GM
12 management and negotiated Mark Burbrink's
13 grievance, and he got his job back on conditions
14 of release.

15 Amy Reveal, in 2018 -- she was terminated
16 in 2014. She stayed out of the plant, off work,
17 terminated for four years. They sent her a
18 Certified letter, and which I have in the record,
19 informing her that her termination has been
20 switched to 30 days off work and balance of the
21 shift, and she was to return back to work. So,
22 that's a connection of race discrimination. On
23 the very same day that my grievance was withdrawn

1 without prejudice, Dave Matthews went to the
2 management and negotiated Mark Burbrink's, a
3 similarly situated white male's, grievance back.

4 As far as timeliness, the UAW Constitution
5 states obligation to exhaust internal Union
6 remedies. It shall be the duty of any individual
7 or body, if aggrieved by any action, decision or
8 penalty imposed, to exhaust fully the individual
9 or body's remedy and all appeals under -- under
10 this Constitution and rules of this Union before
11 going to a civil court or governmental agency for
12 redress.

13 I had no choice but to exhaust the
14 internal administrative due processes from before
15 I came, and on March 22nd, when I got the final
16 decision from the Public Review Board, I -- I'm
17 sorry -- I then went and filed with the ICRC.

18 Secondly, I was terminated for a medical
19 reason. It was not a terminable offense. I was
20 placed on a job I could not do on June 14th, then
21 they called me back in, stripped me of all of my
22 restrictions, and ordered me back on the job. GM
23 management did this, and UAW refused and failed

1 to write a grievance.

2 Now, the final and binding,
3 Paragraph 43(b) -- excuse me for talking fast --
4 Paragraph 43(b) was used improperly. The rules
5 and regulations -- General Motors and management
6 got togeth -- the UAW and management got together
7 and they agreed to this change. Paragraph 43(b)
8 states any decision by a mutually agreed IME is
9 final and binding on every party.

10 The IME said that I could do the job.
11 What was supposed to happen was GM was supposed
12 to send me a 64(d) letter informing me to return
13 back to work to do the job, because that was the
14 decision of the IME. They changed it. They said
15 if the IME says I can do the job, I remain
16 terminated, and that's what happened.

17 And the Union was in collusion with them
18 and failed to file a grievance in that regard.
19 They used Paragraph 43 differently. I was
20 already terminated. Why would General Motors
21 send me to an IME? They fired me August 2nd.

22 And secondly, the IME -- I didn't see the
23 IME until August 4th. They sent me a 64(d)

1 letter on August 2nd, two days before I went to
2 the medical examination, telling me that I was
3 terminated based on the IME results. How could I
4 be terminated August 2nd based on the IME
5 results, and I didn't see the IMO -- IME until
6 August 4th?

7 That shows the collusion right there.
8 They -- unless they've got some type of
9 clairvoyant or psycho powers that can know what
10 the IME was going to say. They fired me with a
11 Certified letter, which is in the record,
12 before -- on August 2nd, before I went to see the
13 IME August 4th.

14 CHAIRMAN RAMOS: Are there any
15 questions for Mr. Lymon?

16 COMM. SLASH: (Shook head no.)

17 CHAIRMAN RAMOS: Mr. Jackson, are you
18 still there?

19 COMM. SLASH: He left.

20 CHAIRMAN RAMOS: Oh, I'm sorry.

21 COMM. BLACKBURN: Yes, I'm here.

22 CHAIRMAN RAMOS: Thank you.

23 Rebuttal?

1 MR. HICKS: Yeah, sure. Amy Reveal
2 did not testify. There were two days of hearing.
3 She was subpoenaed. She didn't show up. I have
4 no idea -- all that he said about Amy Reveal is
5 hearsay, because it was not -- it's not part of
6 the record, and it was -- I had never met her. I
7 have no idea of what her situation is. We didn't
8 get to cross-examine her. So, with respect to
9 that, that's just inconsistent with the record.

10 MR. LYMON: It's in the record.

11 MR. HICKS: With respect to -- with
12 respect to his argument that the IME was somehow
13 out of order, let's go back to the beginning.
14 They sent him multiple 64(d) letters, because
15 throughout the summer there was an -- and these
16 are in the record -- throughout the summer there
17 was an argument between GM and Mr. Lymon as to
18 whether he could return to work.

19 And so, they sent him one earlier in the
20 summer; I believe they sent him one on July 21st.
21 Mr. Lymon comes to the plant on July 28th, but he
22 doesn't perform the job. He still says that he
23 can't do the job.

1 So, GM sends the letter on August 2nd,
2 saying, "Look, we provided you the notice. You
3 have five days under the contract. You didn't
4 return to actually work, you just returned to
5 make your argument." And so, that's why they
6 terminated him.

7 In connection with that, the Union
8 implemented a grievance under Paragraph 43(b)
9 that allowed for the Independent Medical Exam,
10 and the whole point of him having the Medical
11 Exam was to see whether he could do the job or
12 not, and it's undisputed that GM would have put
13 him back to work if it came down in his favor.
14 As it turned out, it didn't come down in his
15 favor.

16 Mark Burbrink. He never made the argument
17 about Mark Burbrink until now, essentially. He
18 never cited him as a comparator. Mark
19 Burbrink -- Matthews testified credibly that he
20 never provided him any notice that Mr. Lymon
21 contends he received.

22 Mark Burbrink was terminated in connection
23 with a totally different issue. He wasn't

1 terminated because there was an IME that said he
2 couldn't work. He was terminated because his
3 five-year-old son drowned in the swimming pool,
4 and he had attendance problems.

5 So, Matthews was able to negotiate a
6 return to work for Mark Burbrink, but GM wouldn't
7 make that same deal for Mr. Lymon because it
8 said, "Look, the contract says 'final and
9 binding,' and we have a decision that says you
10 can work and you never returned to work."

11 Jonathan Burget, that's not within the
12 Judge's decision. She correctly concluded that
13 he's not similarly situated. Though a member of
14 the Local, he has a different employer, he has a
15 different contract, he wasn't terminated for the
16 same reason, and the Local Union didn't give him
17 anything that it didn't give Mr. Lymon.

18 Mr. Burget's grievance with withdrawn by
19 an International Union rep, so the Local Union
20 didn't withdraw his grievance, didn't make a
21 determination about his grievance. As I said
22 earlier, Mr. Lymon had effectively two
23 grievances, one which I held up. GM never argued

1 that the grievance was late and that they
2 wouldn't entertain it, so there's no procedural
3 problems.

4 And with respect to the NLRA, well, I mean
5 obviously, as you guys -- as the Commissioners
6 know, that's not binding with respect to you,
7 because your job is to enforce the Indiana Civil
8 Rights Act. But since Mr. Lymon brought it up,
9 he also filed a charge with the NLRB that was
10 dismissed on timeliness grounds, for the same
11 reason.

12 So, the -- and he appealed that to
13 Washington D.C., and this all in the record, and
14 the General Counsel's Office, like the Public
15 Review Board, said the Union did nothing wrong.
16 They found against Mr. Lymon.

17 And Mr. Lymon is wrong that he had to
18 exhaust the internal appeals procedure before he
19 came here. He actually filed his complaint while
20 the appeals procedure was ongoing, so that's a
21 misstatement and that's incorrect as a matter of
22 law.

23 And, you know, again, the Judge's decision

1 is well supported. Mr. Lymon has not given you
2 any reason to disturb the Judge's decision, which
3 was, at the end of the day, he can't prove a link
4 between his race and -- to the withdrawal of the
5 grievance, just whatever notice was or wasn't
6 provided with the withdrawal of the grievance and
7 the denial of the appeal.

8 And then just because I have 30 more
9 seconds, the Public Review Board specifically --
10 this is the end of the rung. The Public Review
11 Board -- he did get to appeal, and the Public
12 Review Board said, "Even if his appeal was
13 timely, nothing would be gained by reactivating
14 the appeals process at this point, because the
15 decision to withdraw the grievance as so clearly
16 rational. We have repeatedly upheld the Union's
17 conclusion that it could not achieve
18 reinstatement of employee through arbitration,
19 where it has been established that the employee
20 failed to comply with the five-day letter."

21 And I'll stop at that.

22 CHAIRMAN RAMOS: Commissioners, any
23 questions for Mr. Hicks?

1 (No response.)

2 CHAIRMAN RAMOS: All right. We have,
3 just as a reminder, the order from the ALJ was
4 that Mr. Lymon's complaint against the UAW was
5 dismissed with prejudice, and the UAW Local
6 Union 2209's request for an award of expenses is
7 denied, and this is the -- this is the decision
8 that's in front of us today. We need to make a
9 decision to uphold, to remand, to reverse, or
10 dismiss. I open it for discussions.

11 (No response.)

12 CHAIRMAN RAMOS: Do I hear a motion?

13 COMM. SLASH: Comm. Blackburn, are
14 you still there?

15 (No response.)

16 CHAIRMAN RAMOS: Comm. Blackburn?

17 COMM. BLACKBURN: Yes.

18 CHAIRMAN RAMOS: All right. So,
19 Commissioners, I need an action.

20 (Discussion off the record.)

21 COMM. SLASH: Can you read our
22 choices again, please?

23 CHAIRMAN RAMOS: Our options, again,

1 we have two elements that are here. One is the
2 complaint against the UAW be dismissed with
3 prejudice, and the second is the award of
4 expenses to the UAW, which has been denied. We
5 can affirm, reverse, uphold -- affirm is the
6 same -- reverse, or dismiss. Those are our
7 options. We can reopen the case again, too, but
8 I don't know if --

9 COMM. HARRINGTON: Huh-uh.

10 COMM. SLASH: Do you have any
11 questions?

12 COMM. HARRINGTON: No, I don't.

13 CHAIRMAN RAMOS: I still need a
14 motion.

15 COMM. SLASH: Okay. At this point,
16 based off of all of the evidence that we've heard
17 and the arguments that we've heard here today, I
18 would like to move that we uphold and affirm the
19 ALJ's findings on both.

20 CHAIRMAN RAMOS: On both counts?

21 COMM. SLASH: Yes.

22 CHAIRMAN RAMOS: Motion's been made
23 to affirm the decision from the ALJ to dismiss

1 with prejudice the complaint against the UAW, and
2 to award -- to deny the award of expenses to the
3 Local Union. I need a second.

4 COMM. HARRINGTON: I'll second.

5 COMM. BLACKBURN: I'll second.

6 CHAIRMAN RAMOS: Seconded by
7 Comm. Harrington. All those in favor of
8 upholding or affirming the decision, signify by
9 saying aye individually.

10 Comm. Blackburn?

11 COMM. BLACKBURN: Aye.

12 CHAIRMAN RAMOS: Comm. Harrington?

13 COMM. HARRINGTON: Aye.

14 CHAIRMAN RAMOS: Comm. Slash?

15 COMM. SLASH: Aye.

16 CHAIRMAN RAMOS: And aye. Motion's
17 upheld.

18 Thank you, gentlemen.

19 MR. HICKS: Thank you, Commissioners.

20 CHAIRMAN RAMOS: That returns us back
21 to our agenda. The next item that we have on the
22 agenda --

23 COMM. SLASH: Do we need the ALJ back

1 in, or are we good?

2 CHAIRMAN RAMOS: I don't think we
3 need the ALJ back in. We just have public
4 comments and announcements. Well, I think she --
5 I think she was wanting to be here.

6 COMM. SLASH: Okay.

7 CHAIRMAN RAMOS: Do you want to go
8 get her?

9 (Pause in proceedings.)

10 CHAIRMAN RAMOS: We are at the point
11 of announcements and public comment.

12 (Discussion off the record.)

13 JUDGE STEPHENS RYKER: Are we still
14 on the record?

15 COMM. SLASH: Yes.

16 CHAIRMAN RAMOS: We are still on the
17 record.

18 JUDGE STEPHENS RYKER: Okay. So, as
19 far as announcements, if that's okay --

20 CHAIRMAN RAMOS: Yes.

21 JUDGE STEPHENS RYKER: -- I do have
22 one announcement. I'll keep it pretty quick.
23 First, I will e-mail you the ethics training. We

1 won't keep you for that, if that sounds good.

2 COMM. SLASH: Great.

3 JUDGE STEPHENS RYKER: The second
4 thing is there is a case on which I have a
5 conflict because I was involved in the
6 investigation, so I need to recuse myself from
7 that, and I believe Chair Ramos would be willing
8 to take that on based on the statute. It says
9 where the assigned ALJ cannot adjudicate that
10 case, then the Chair is the first person who
11 would take on that responsibility. So, if the
12 Commission would be willing to put that to a
13 vote, that would help in getting that case
14 started.

15 COMM. SLASH: So moved.

16 CHAIRMAN RAMOS: So, do we need to
17 state the case?

18 JUDGE STEPHENS RYKER: Oh, yes.
19 Thank you very much. One second here. The case
20 on which I have a conflict is Ledoris Pace versus
21 Porter Regional Hospital, ICRC No. EMra16071322,
22 EEOC No. 24F-2016-0134(b).

23 CHAIRMAN RAMOS: Okay.

1 COMM. HARRINGTON: A question in
2 process. You said the first step is the Chair.
3 What is the next step if it wasn't the Chair?

4 JUDGE STEPHENS RYKER: So, if Chair
5 Ramos is unable to serve as the ALJ, the
6 Vice-Chair would be next in line for that, and
7 then if Vice-Chair Slash is unable to do that,
8 then any of the Commissioners could serve in her
9 stead.

10 COMM. HARRINGTON: Okay. I just want
11 to understand the process.

12 JUDGE STEPHENS RYKER: Sure.

13 CHAIRMAN RAMOS: So, we need a motion
14 to approve the Chair to be the acting ALJ in this
15 particular case that was previously mentioned. I
16 need a motion to approve.

17 COMM. SLASH: So moved.

18 CHAIRMAN RAMOS: I need a second.

19 COMM. HARRINGTON: Second.

20 CHAIRMAN RAMOS: All those in favor
21 of this motion, signify by saying aye.

22 Comm. Blackburn?

23 COMM. BLACKBURN: Aye.

1 CHAIRMAN RAMOS: Comm. Harrington?

2 COMM. HARRINGTON: Aye.

3 CHAIRMAN RAMOS: Comm. Slash?

4 COMM. SLASH: Aye.

5 CHAIRMAN RAMOS: Aye.

6 JUDGE STEPHENS RYKER: And that's all

7 I have.

8 COMM. HARRINGTON: Are the dates
9 specific? So, how do you verify that he's
10 available?

11 CHAIRMAN RAMOS: We had a
12 conversation.

13 JUDGE STEPHENS RYKER: So, Chair
14 Ramos will take over as ALJ and the Docket Clerk,
15 Ms. Eromosele, will serve as his Docket Clerk as
16 well and get everything organized for him so that
17 he'll have access to any and all of our
18 resources, setting up the hearing room for
19 prehearing conferences. She can assist with all
20 of that.

21 COMM. HARRINGTON: So, they will
22 coordinate with --

23 JUDGE STEPHENS RYKER: Yes.

1 COMM. HARRINGTON: Okay. That's --

2 JUDGE STEPHENS RYKER: He will take
3 over the case from here on.

4 COMM. HARRINGTON: Okay.

5 CHAIRMAN RAMOS: It'll be an
6 interesting process as well. You've done that.

7 COMM. SLASH: I've been there, yes.

8 CHAIRMAN RAMOS: You've been there.
9 And that's what the role is for, so I'll be happy
10 to step up to that for the cause.

11 JUDGE STEPHENS RYKER: Thank you.

12 CHAIRMAN RAMOS: Okay. Any other
13 announcements?

14 JUDGE STEPHENS RYKER: Not from me,
15 no.

16 CHAIRMAN RAMOS: All right. So,
17 public comments?

18 MS. POSEY: Ms. Bland?

19 MS. BLAND: Yeah. First of all, I
20 just want to ask you all to forgive me. I didn't
21 mean to raise my voice, but I didn't agree with
22 what you said, because of you didn't get all of
23 the facts and --

1 CHAIRMAN RAMOS: Please identify
2 yourself for the record.

3 MS. BLAND: Oh, my name is Develan L.
4 Bland, Develan Bland, against Ortho Indy. I gave
5 you my tapes -- I gave you my letter, I gave you
6 my tapes, I told you -- it's in the letter and on
7 my recording about everything that happened, all
8 of the people that I talked to there. I told you
9 the camera's sitting right there on me and my
10 daughter. We was the only African-Americans in
11 there.

12 Then Angie goes -- I'm talking to the
13 lady. She asked me for my information. I give
14 the lady my information, then this girl named
15 Angie butts in, "I'm not talking to you," and I
16 wouldn't say nothing to her, so she got offended
17 because I wouldn't say nothing to her while she
18 was talking. So, she storms out of there.

19 The lady sitting -- I can't think of the
20 lady at the desk. She was sitting here.
21 Security is right there, so if I was doing
22 something out of line, the security guard was
23 right there big as day.

1 Okay. So, he put his head down, and she
2 put her head down, you know, because Angie had no
3 right to butt in. So, Angie -- so, I wouldn't
4 answer Angie, so Angie gets mad, she storms out
5 of the room like she's two years old, she goes to
6 the back, and I asked the lady that was taking my
7 information, I said, "Where did she go?" And she
8 said, "She went back there to get somebody," some
9 name she said.

10 So, when he -- and Joanie came out. He
11 just came right in my face and said, "We ain't
12 serving you."

13 "Why?"

14 And he said, "We just ain't serving you."

15 "Why not?"

16 "We just ain't going to serve you."

17 "Okay. This is for sprains of ankles.
18 This is a recorder. You can't turn me away."
19 Plus my doctor sent me there. "You don't have no
20 right to turn me away."

21 Then after that, here comes -- a Caucasian
22 comes in pushing her -- he or she is pushing one
23 of -- each other, I don't recall if the man was

1 pushing the woman or the woman was pushing the
2 man, but they got there dead at almost closing
3 time.

4 They got seen, and they're going to send
5 me away, me and my daughter? Huh-uh. I came too
6 far for that. And plus, you don't have no right
7 to turn me away. And then they had in the letter
8 something about a shot, a shot. If I said that,
9 you're supposed to have that. I didn't come in
10 there -- I told them I was in a car accident and
11 I hurt my arm. They didn't have no right to turn
12 me away.

13 And I wasn't trying to be rude or
14 disrespectful to you all anyway, but I know that
15 camera's going to set us free, because I know
16 that camera's going to tell the truth. I'm
17 telling the truth, and they didn't have no right
18 to turn me away.

19 I talked to Ms. Smith, and I told
20 Ms. Smith. She even said, "I can't understand
21 why they turned you away." I said, "I don't
22 either." She said, "But did you have surgery on
23 your neck?" I said, "I sure did." She said,

1 "Well, you know, you've got to go back to your
2 doctor who did the surgery." I said, "I'm fully
3 aware of that, but I didn't come in there for
4 that. I came in there for my arm, and plus, my
5 doctor sent me there."

6 And then I got there -- I did as you all
7 said, get there before 8:00 o'clock, and me and
8 my daughter did, and spent the whole time -- when
9 we got there, you'll see me standing at the desk
10 talking to the people. I wasn't rude, wasn't
11 disrespectful.

12 When that lady, Joan -- when Angie stormed
13 out, then the brother took my information, and
14 the security guard said, "Well, you know we've
15 got to ask you questions." I said, "Yeah, I know
16 you do, I'm fully aware of that, but I wasn't
17 talking to her. I'm talking to her. I'm talking
18 to her," the lady that took my information.

19 This lady's supposed to wait until I get
20 through and take me to the back, then ask me.
21 You just don't run in there and talk to me any
22 kind of way, you know. She just talked to me
23 like I was two years old, and she talked to me

1 like she was prejudiced, and I didn't appreciate
2 her tone of voice or anything like that.

3 And as far as the Caucasian people coming
4 in, "You're going to see them and turn me away?"
5 No, no, no. And that's why it was so important
6 that I made that perfectly clear to Ms. Thompson,
7 Ms. Deering. I made it perfectly clear to them.
8 I even told that to Ms. --

9 MS. POSEY: Simmons?

10 MS. BLAND: Yeah, Ms. Simmons, and I
11 told that to Fran, you know, because I came
12 straight here, because you all had no -- I came
13 the next day, I was so hot. You know, all that
14 time I went out there and all of the pain I'm in.
15 I'm still going through trouble right now, as of
16 today, with my arm. I went for an MRI yesterday
17 for my arm.

18 I'm still having problems with this arm,
19 and it's an injury, but I said "fracture." So, I
20 didn't know fracture was a broken arm. I didn't
21 have that. I had an injury, but I'm still in the
22 guidelines; you understand? You don't have no
23 right to turn me away. You just can't come in

1 the back and go back when somebody tell you and
2 turn me away. You can't do that. You can't do
3 that. And that's wrong.

4 And that's all I was asking you all to do
5 the last time I was here, get the camera. Just
6 ask for the footage. And then I asked my lawyer
7 about it. He said the only way -- the only one
8 can get the footage is you all, or we go to
9 court. Let's go in front of a judge.

10 MS. POSEY: We asked for the footage,
11 and they had already -- they don't keep the
12 footage --

13 MS. BLAND: Oh, yes, she did. She
14 had the footage.

15 MS. POSEY: -- for more than 48
16 hours.

17 MS. BLAND: Huh-uh, they had the
18 footage. But look, you had plenty of time to get
19 the footage. You had plenty enough time to get
20 it. You had plenty enough time to get that
21 footage. I came the next following day, I was
22 that mad. I called Ms. Simmons the next
23 following day, and I came straight down here.

1 And plus, we typed it up, me and my -- like I
2 speak it, and my daughter goes to school, and
3 she'll type it up, and --

4 MS. POSEY: Uh-huh.

5 MS. BLAND: -- we typed the letter up
6 and we brought it down here. Then we put out the
7 papers and then you all sent me a letter. And
8 then I talked to another gentleman, and he
9 said -- I said, "No, I don't agree with this."
10 He said, "Well, you've got 15 days," and we came
11 the same day.

12 MS. POSEY: Uh-huh.

13 MS. BLAND: I'm telling the truth.
14 You don't have no right to turn me away, and I'd
15 just really appreciate it if you all would get
16 that footage and you'll see that I'm telling the
17 truth, and I pray that you don't take my outburst
18 today of being rude and disrespectful, which I
19 was, but I'm sorry. It's just that I don't agree
20 with it, and I'm going to stand up for what is
21 right.

22 And that is discrimination, big as day,
23 because me and my daughter was the only

1 African-Americans in there. Everybody in there
2 was Caucasian, and I don't believe in that. I'm
3 here for the Lord. I don't believe in that, but
4 I believe in righteousness and justice. And they
5 are wrong, and I'm telling you, all you need to
6 do is listen to the recordings, all of the
7 recordings I sent --

8 MS. POSEY: Uh-huh.

9 MS. BLAND: -- and read the letter.
10 I'm telling the truth. Just get the footage.
11 You had plenty enough time to get the footage.
12 You had plenty enough time to get that footage.
13 I'd rather go to court, because I ain't done with
14 this. They ain't getting away with this.

15 CHAIRMAN RAMOS: So, the burden of
16 proof is to demonstrate that they acted racially
17 discrimin --

18 MS. BLAND: Yes, they did, sir. Yes,
19 they did.

20 CHAIRMAN RAMOS: So that in
21 evidence -- and I didn't go through -- I read
22 through the highlighted piece of it, but I
23 haven't gone through the whole case. If -- in

1 many cases, if this particular company serves
2 other denominations, including African-American,
3 others -- I mean generally speaking, you know, in
4 this -- in general, this is -- there's no
5 evidence that they discriminated. I mean if
6 there was only -- if they only handled Caucasian
7 people, that would be clear evidence, but if they
8 support in the documentation that they handle
9 others, and that's particularly part of that.
10 So, it would have to be specific, something
11 that's specifically oriented to you that clearly
12 demonstrated that it was --

13 MS. BLAND: It was, it was
14 discrimination. It was discrimination. I mean
15 when I came in there, just looking at me, she
16 looked at me so evil and hateful and mean, you
17 know, and they had no right to turn me away,
18 whenever you get through with it. "You can't
19 turn me away after my doctor done sent me there.
20 Plus I called you, plus I'm in the guidelines
21 with your answering service, with you all
22 helping. You don't have no right to turn me
23 away. And then you're going to turn around and

1 see them and send us away?" I don't think so.
2 That's wrong.

3 MS. POSEY: So, you say you have an
4 attorney?

5 MS. BLAND: No, I -- no, I talked to
6 an attorney about this.

7 MS. POSEY: Okay.

8 MS. BLAND: And he told me to -- he
9 said, "That's the problem. As long as you don't
10 get that footage, they're going to win. It takes
11 them to get the footage." You get that
12 footage --

13 MS. POSEY: Right.

14 MS. BLAND: -- then you all make a
15 decision. But see, you can't -- you can't make
16 no decision when you don't have all of the facts.

17 MS. POSEY: Right. So, unfortunately
18 when we requested the footage, they no longer had
19 the footage.

20 MS. BLAND: No, but you had plenty
21 enough time to get the footage. That's not my
22 fault.

23 MS. POSEY: Okay.

1 MS. BLAND: You all had plenty enough
2 time to get that footage.

3 CHAIRMAN RAMOS: But the footage
4 would not --

5 MS. BLAND: Even Ms. Thomp -- Ms. --

6 MS. POSEY: Thompson.

7 MS. BLAND: She had plenty enough
8 time to get that footage. Ain't no excuse for
9 that.

10 CHAIRMAN RAMOS: So, the --

11 MS. BLAND: Ain't no excuse for that.

12 CHAIRMAN RAMOS: Depending on the --
13 depending on the type of security -- and I don't
14 know what it is, but I have a business and I have
15 cameras all over the place.

16 MS. BLAND: You know, that little
17 round one.

18 CHAIRMAN RAMOS: Yeah. Well, but it
19 is -- most of them are just video, they're not
20 audio and video, they're just video.

21 MS. BLAND: But you can --

22 CHAIRMAN RAMOS: And I don't know
23 particularly what this would be, but if there was

1 something that was said, then that would be
2 evidence.

3 MS. BLAND: You can see from the
4 body -- you can see from the body language, you
5 can see that me and my daughter, we're the only
6 ones in there, because they're getting ready to
7 close. We -- they were getting ready to close.
8 Me and my daughter -- from the time I got in
9 there, that's all they did was treated me mean,
10 evil.

11 Then a man is just going to come out of
12 the blue and just say, "I'm not going to see
13 you," and, you know, didn't have no explanation
14 why you don't want to see me? What? After I
15 done came this far? After I done called you and
16 I'm still in pain? Ms. Thompson, she had plenty
17 enough time -- Ms. Thomas, she had plenty enough
18 time to get that footage.

19 COMM. HARRINGTON: Regardless of
20 the --

21 MS. BLAND: Ain't no excuse for that.

22 COMM. SLASH: There's no footage.

23 MS. BLAND: Oh, yes, there is the

1 footage, because it's on my --

2 COMM. HARRINGTON: But that's --

3 MS. BLAND: -- it's on my answering
4 service. You listen to my recording. You'll
5 hear the manager of the place. She's saying -- I
6 would play back the footage. You had plenty
7 enough time to get the footage.

8 COMM. HARRINGTON: Well, she's just
9 telling you she went to get the footage, and they
10 won't provide it. So, you can --

11 MS. BLAND: Okay. But see, it took
12 one -- like Mr. -- you. It could have took him
13 to get it. It takes a lawyer -- I mean a judge,
14 with -- somebody big like him could have -- you
15 could have -- ain't no excuse for that. You
16 could have got the footage.

17 COMM. HARRINGTON: It's not an
18 excuse, ma'am. I'm just trying to help you hear
19 her fact.

20 MS. BLAND: No.

21 COMM. HARRINGTON: Based on today,
22 there is no footage from the place that --

23 MS. BLAND: I guess not. Look how

1 long it took -- look how long -- you should have
2 got it then. Ain't no excuse.

3 COMM. HARRINGTON: Well, it's not an
4 excuse, it's a fact at this point, so --

5 MS. BLAND: No, that's wrong.

6 COMM. HARRINGTON: -- all we can do
7 is, based on what's been provided --

8 MS. BLAND: That's wrong. That's
9 wrong.

10 COMM. HARRINGTON: -- to us. And so,
11 the footage, even in --

12 MS. BLAND: That's wrong.

13 COMM. HARRINGTON: -- seeing it,
14 doesn't show racial discrimination.

15 MS. BLAND: Oh, yes it do. Did you
16 see it?

17 COMM. HARRINGTON: No, but listening
18 to what you said has happened --

19 MS. BLAND: Oh, no, oh, no, oh, no.

20 COMM. HARRINGTON: Just because
21 you're in a room with other people --

22 MS. BLAND: You can look at -- just
23 look at the footage. I'm telling you --

1 COMM. HARRINGTON: There's no
2 footage.

3 MS. BLAND: I guess not. Look how
4 long it took you to get it. You should have got
5 it then.

6 COMM. HARRINGTON: But you keep
7 telling us to look at something we can't see.
8 We're here to help you --

9 MS. BLAND: You should have got it
10 then. Oh, my God.

11 COMM. HARRINGTON: So --

12 MS. BLAND: That's not right.

13 COMM. HARRINGTON: I'm just trying to
14 help you, and --

15 MS. BLAND: No, that's not fair.
16 That's not fair.

17 CHAIRMAN RAMOS: I mean --

18 MS. BLAND: That is not fair.

19 CHAIRMAN RAMOS: And if they're
20 truly --

21 MS. BLAND: It's not fair.

22 CHAIRMAN RAMOS: In their case, if
23 they're truly individuals that are biased, then

1 that isn't going to just be evident in one case,
2 it would be -- there would be other situations of
3 that as well, and there aren't any other cases --

4 MS. BLAND: No, that's
5 discrimination.

6 CHAIRMAN RAMOS: -- that have come
7 forward --

8 MS. BLAND: That's discrimination.

9 COMM. HARRINGTON: Yeah, other
10 witnesses would --

11 MS. BLAND: That's discrimination all
12 day long. That's discrimination all day long.
13 And Ms. Thompson had a -- she should have got the
14 tape. Ain't no excuse for that. Mrs. Deering,
15 ain't no excuse for that. Ain't no excuse for
16 that. You had plenty enough time to get the
17 tape. Ain't no excuse for that. I'm not going
18 for that. I already --

19 COMM. HARRINGTON: We've heard --

20 MS. BLAND: I already specified that,
21 and I told you to get the tape. Ain't no excuse
22 for you all not to get the tape. You all did not
23 take care of this properly. And I'm not

1 ignorant. I know when I'm right.

2 COMM. HARRINGTON: No one is saying
3 you're ignorant, but there's nothing the four of
4 us can do.

5 MS. BLAND: I came down here --

6 COMM. HARRINGTON: Other than the
7 facts you bring in --

8 MS. BLAND: Soon as it happened, I
9 flew down here.

10 MS. POSEY: Uh-huh.

11 MS. BLAND: I made that at the last
12 time. We wrote the letter about everything that
13 happened, then I came straight down here. I
14 called Ms. Simmons. She said, "Yeah, come on
15 down." And I came -- I called before I even came
16 down here so I wouldn't waste my gas.

17 MS. POSEY: Right.

18 MS. BLAND: Ain't no excuse for that.
19 Ms. Thompson, ain't no excuse for that.
20 Ms. Deering, ain't no excuse for that. And every
21 time I call Ms. Deering, she don't never want to
22 answer the phone, she don't want to do nothing;
23 okay?

1 So, Ms. Thompson didn't want to -- I'm
2 asking her questions about what's going on with
3 my case. You ain't got nothing to say? Next
4 thing you know, "You'll get something in the
5 mail." You didn't handle this right. This is
6 supposed to be for discrimination. This is
7 supposed to be for people like me that's being
8 taken advantage of. This didn't have no right to
9 go in their favor. You all need to open this
10 back up again, or let's go in front of a real
11 judge and let that judge be the judge of it,
12 because you are wrong. It don't have no right to
13 go in their favor. This is not over, by a long
14 shot. This is not over.

15 MS. POSEY: So, at this point, you
16 can file a case in trial court where -- wherever
17 this happened. If this happened here in Marion
18 County -- I don't know where --

19 MS. BLAND: Yeah, 86th, Ortho Indy.

20 MS. POSEY: -- or township, and you
21 can file a case in state court. But here at the
22 Commission, once they've made --

23 MS. BLAND: That's wrong.

1 MS. POSEY: -- that final decision,
2 the Commission can't open -- reopen up the case.
3 But now you have all of the evidence, all the
4 information from the Indiana Civil Rights
5 Commission. Have you requested from us your
6 complete file? Because you can request the file.

7 MS. BLAND: Yeah, I want everything
8 back.

9 MS. POSEY: You can take everything
10 and --

11 MS. BLAND: Yeah, I want everything
12 back.

13 MS. POSEY: -- take your matter
14 forward.

15 Okay. What time is it?

16 MS. BLAND: Yeah, I want everything
17 back.

18 CHAIRMAN RAMOS: It's 4:00 o'clock.

19 MS. POSEY: Okay. We're not going to
20 be able to get it to you today, but we can get it
21 to you --

22 CHAIRMAN RAMOS: Monday.

23 MS. POSEY: -- on Monday; okay?

1 MS. BLAND: I just can't believe
2 every time I come to you guys for help, you
3 never -- you never help. It just always goes to
4 the other -- the people that we go against, they
5 always got to win. And I'm not prejudiced, I
6 don't believe in that, but Ortho Indy is wrong.

7 CHAIRMAN RAMOS: Okay. Well, we
8 appreciate you coming down, we appreciate --

9 MS. BLAND: Okay. So, if it don't
10 clear with you all, don't I go to court in here?

11 MS. POSEY: No, not here.

12 MS. BLAND: Okay. Do I file against
13 you all, too?

14 MS. POSEY: If you'd like to.

15 MS. BLAND: Okay. That's fine.

16 CHAIRMAN RAMOS: All right. Are
17 there other public comments?

18 (No response.)

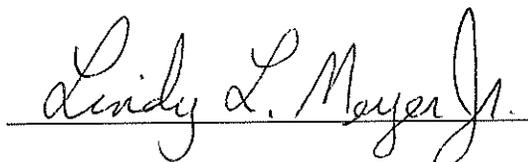
19 CHAIRMAN RAMOS: Hearing none, we are
20 adjourned.

21 - - -
22 Thereupon, the proceedings of
23 October 18, 2019 were concluded
at 4:00 o'clock p.m.
- - -

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CERTIFICATE

I, Lindy L. Meyer, Jr., the undersigned Court Reporter and Notary Public residing in the City of Shelbyville, Shelby County, Indiana, do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me on Friday, October 18, 2019 in this matter and transcribed by me.



Lindy L. Meyer, Jr.,

Notary Public in and
for the State of Indiana.

My Commission expires August 26, 2024.

\$	98:10	6th [1] - 104:23	65:15, 66:4, 66:6, 66:10, 68:2, 69:17, 70:9, 73:3, 76:11, 81:7, 82:15, 83:18, 84:9, 84:19, 85:6, 87:1	ahead [10] - 34:22, 35:3, 39:4, 45:13, 56:4, 56:16, 58:12, 65:23, 69:8, 75:21
\$50,000 [1] - 25:22	2209's [1] - 115:6	7		ain't [21] - 9:18, 90:22, 124:11, 124:14, 124:16, 130:13, 130:14, 133:8, 133:11, 134:21, 135:15, 136:2, 138:14, 138:15, 138:17, 138:21, 139:18, 139:19, 139:20, 140:3
'	22nd [2] - 103:12, 107:15	7 [1] - 97:6		AL [2] - 35:22, 50:10
'final [1] - 112:8	23rd [2] - 38:6, 93:3	76,000 [1] - 61:7		ALJ [41] - 3:21, 22:14, 28:12, 30:1, 33:9, 35:6, 35:18, 36:8, 36:21, 37:1, 37:11, 39:10, 39:23, 40:4, 40:10, 50:12, 51:15, 52:12, 52:19, 52:22, 57:14, 58:2, 59:7, 59:8, 69:10, 74:10, 80:1, 81:8, 81:14, 82:12, 82:19, 88:5, 92:3, 115:3, 116:23, 117:23, 118:3, 119:9, 120:5, 120:14, 121:14
1	24f-2016-0134(b) [1] - 119:22	8		ALJ's [15] - 29:2, 34:15, 34:17, 35:3, 35:16, 50:16, 59:9, 60:9, 62:10, 66:2, 67:12, 68:17, 75:7, 92:1, 116:19
1-11-2 [4] - 37:22, 72:15, 76:10, 82:3	25 [2] - 60:18, 61:5	8 [4] - 28:15, 29:1, 99:20, 100:21		alleged [1] - 103:5
10-6-2004 [2] - 77:19, 104:20	26 [2] - 58:1, 143:15	848-0088 [1] - 1:23		allow [6] - 31:17, 63:13, 71:16, 73:23, 74:23, 97:10
100 [2] - 1:15, 2:8	27 [1] - 99:13	86th [1] - 140:19		allowed [2] - 73:18, 111:9
11:45 [1] - 94:3	28th [2] - 104:17, 110:21	8:00 [1] - 126:7		allows [4] - 93:10, 94:23, 96:11, 98:4
11th [1] - 105:1	29th [1] - 78:17	9		almost [1] - 125:2
12922 [1] - 1:22	2:54 [1] - 74:5	910 [3] - 37:22, 72:15, 76:10		Alpha [3] - 2:4, 20:10, 28:1
14th [1] - 107:20	2nd [5] - 108:21, 109:1, 109:4, 109:12, 111:1	A		ALSO [1] - 2:14
15 [6] - 74:15, 75:17, 88:11, 88:20, 89:23, 129:10	3	ability [2] - 46:16, 83:20		amend [1] - 34:6
150 [1] - 76:17	3 [1] - 35:5	able [4] - 4:20, 67:6, 112:5, 141:20		amended [1] - 59:4
15th [2] - 87:18, 106:4	30 [4] - 44:6, 44:11, 106:20, 114:8	above-captioned [1] - 1:10		American [3] - 22:1, 103:21, 131:2
16 [2] - 100:7, 100:12	317 [1] - 1:23	absolutely [3] - 22:10, 72:22, 106:2		Americans [2] - 123:10, 130:1
17 [1] - 99:20	34 [1] - 24:1	academic [1] - 48:8		amount [4] - 39:16, 55:22, 61:7, 81:9
18 [5] - 1:5, 1:16, 3:1, 142:22, 143:7	35 [1] - 96:13	accept [7] - 50:23, 51:3, 64:16, 68:20, 69:11, 82:20		ample [1] - 88:6
180 [1] - 92:17	396 [1] - 99:20	accepted [1] - 64:13		Amy [10] - 75:5, 75:6, 75:7, 75:12, 77:13, 79:3, 105:8, 106:15,
186 [1] - 23:9	4	accepting [1] - 81:9		
18th [2] - 3:5, 78:16	4 [1] - 71:13	access [1] - 121:17		
1:15 [3] - 1:17, 3:1, 3:6	4-21.5-2-28 [1] - 76:9	accident [1] - 125:10		
2	4.02 [1] - 71:12	according [2] - 82:10, 82:14		
2 [2] - 35:2, 96:13	40 [2] - 100:20	account [1] - 64:15		
20 [1] - 24:1	42 [1] - 77:18	accrued [1] - 104:1		
2004 [5] - 78:16, 78:17, 91:17, 95:19, 104:17	420 [1] - 100:6	ACCURATE [1] - 1:21		
2007 [4] - 87:18, 91:16, 97:13, 106:4	43 [1] - 108:19	accurately [1] - 45:18		
2008 [2] - 94:19, 97:21	43(b) [5] - 96:9, 108:3, 108:4, 108:7, 111:8	achieve [1] - 114:17		
2009 [1] - 94:19	431 [1] - 100:22	act [1] - 105:19		
2010 [1] - 94:19	46032 [1] - 1:22	Act [1] - 113:8		
2011 [10] - 78:17, 91:19, 91:21, 92:20, 92:21, 93:1, 97:23, 102:6, 102:19, 102:20	46204 [1] - 2:8	acted [2] - 105:13, 130:16		
2012 [2] - 93:3, 103:13	48 [1] - 128:15	acting [2] - 84:8, 120:14		
2014 [1] - 106:16	4:00 [2] - 141:18, 142:22	action [4] - 26:10, 30:14, 107:7, 115:19		
2018 [1] - 106:15	4th [3] - 108:23, 109:6, 109:13	actual [1] - 83:5		
2019 [7] - 1:5, 1:17, 3:1, 3:5, 4:5, 142:22, 143:7	5	added [1] - 76:14		
2024 [1] - 143:15	5 [5] - 47:10, 47:16, 47:19, 47:21, 100:7	addition [3] - 100:6, 103:9, 104:5		
21st [1] - 110:20	6	addition [2] - 33:17, 41:9, 43:21, 49:16, 63:22, 64:13,		
2209 [6] - 74:12, 78:3, 79:13, 91:11, 92:4	60 [3] - 98:7, 98:16, 102:8	agreed [2] - 108:7, 108:8		
	64(d) [4] - 96:5, 108:12, 108:23, 110:14	agreement [3] - 25:14, 26:9, 101:17		

110:1, 110:4
Anderson [1] - 20:19
Anehitā [1] - 2:12
Angie [7] - 123:12, 123:15, 124:2, 124:3, 124:4, 126:12
ankles [1] - 124:17
announcement [2] - 3:8, 118:22
announcements [5] - 4:7, 118:4, 118:11, 118:19, 122:13
answer [8] - 37:14, 50:5, 55:9, 100:2, 100:12, 101:3, 124:4, 139:22
answering [2] - 131:21, 135:3
answers [2] - 31:11, 40:7
anyway [1] - 125:14
apologize [3] - 4:14, 65:22, 94:4
apologized [1] - 26:9
apology [3] - 25:16, 25:17, 58:23
appeal [32] - 40:11, 40:18, 63:9, 64:11, 67:10, 69:2, 69:19, 78:9, 78:10, 78:16, 91:17, 92:7, 93:1, 94:22, 95:7, 98:10, 98:16, 98:22, 99:6, 100:9, 100:10, 100:11, 102:3, 102:5, 102:14, 102:18, 103:6, 105:12, 114:7, 114:11, 114:12
appealed [3] - 15:15, 95:2, 113:12
appealing [2] - 58:7, 98:9
appeals [17] - 3:16, 3:20, 58:6, 64:12, 64:20, 66:17, 70:1, 95:3, 98:4, 98:6, 103:12, 104:2, 105:17, 107:9, 113:18, 113:20, 114:14
Appeals [2] - 21:17, 65:5
APPEARANCES [1] - 2:1
appellate [2] - 69:1, 78:13
applied [1] - 102:22
applies [2] - 71:21, 103:1

apply [1] - 103:1
appointment [2] - 3:19, 21:16
appreciate [7] - 14:8, 14:11, 27:4, 127:1, 129:15, 142:8
apprised [1] - 105:20
approval [3] - 3:10, 5:4, 6:20
approve [17] - 5:5, 6:16, 7:15, 12:22, 17:4, 18:2, 19:5, 19:23, 20:23, 59:10, 64:5, 65:3, 65:14, 70:7, 70:8, 120:14, 120:16
approved [4] - 7:8, 16:5, 59:5, 64:8
approves [1] - 8:7
April [6] - 92:20, 93:3, 97:21, 97:23, 102:20
Aramark [2] - 21:21, 21:23
arbitration [1] - 114:18
area [1] - 39:20
areas [1] - 24:20
argued [1] - 112:23
argument [16] - 38:3, 40:19, 40:22, 41:3, 67:4, 73:7, 73:23, 74:14, 75:4, 81:10, 82:9, 95:14, 110:12, 110:17, 111:5, 111:16
arguments [10] - 4:4, 29:21, 37:12, 39:15, 40:12, 74:11, 80:4, 99:14, 102:17, 116:17
arm [6] - 125:11, 126:4, 127:16, 127:17, 127:18, 127:20
article [2] - 77:12, 78:22
aspects [1] - 92:13
assembly [1] - 95:16
assign [1] - 21:18
assigned [4] - 38:9, 86:15, 95:21, 119:9
assigning [1] - 22:7
assist [1] - 121:19
assistant [1] - 6:7
associated [1] - 10:7
attachments [1] - 85:14
attempt [1] - 81:7
attempted [1] - 97:9
attendance [1] - 112:4

attention [2] - 27:5, 47:21
attorney [3] - 91:10, 132:4, 132:6
audio [4] - 13:16, 13:18, 20:19, 133:20
August [13] - 23:1, 23:9, 38:6, 108:21, 108:23, 109:1, 109:4, 109:6, 109:12, 109:13, 111:1, 143:15
authority [8] - 20:19, 72:23, 80:13, 80:16, 82:13, 83:23, 84:9, 85:18
available [2] - 23:5, 121:10
Avenue [3] - 1:15, 1:22, 2:8
award [4] - 115:6, 116:3, 117:2
aware [3] - 105:14, 126:3, 126:16
aye [69] - 5:10, 5:12, 5:18, 5:20, 5:22, 5:23, 6:21, 6:23, 7:2, 7:4, 7:7, 7:20, 7:22, 8:1, 8:3, 8:5, 8:6, 17:10, 17:12, 17:14, 17:16, 17:18, 17:19, 18:7, 18:9, 18:11, 18:13, 18:15, 18:16, 19:10, 19:12, 19:14, 19:16, 19:18, 19:19, 20:5, 20:7, 20:9, 20:12, 20:14, 20:16, 20:17, 21:5, 21:7, 21:9, 21:11, 21:13, 21:14, 29:10, 29:12, 29:14, 29:16, 29:18, 29:19, 62:11, 62:13, 62:17, 62:19, 62:20, 117:9, 117:11, 117:13, 117:15, 117:16, 120:21, 120:23, 121:2, 121:4, 121:5
Aye [1] - 7:6

B

background [3] - 6:4, 45:20, 95:13
balance [1] - 106:20
bargaining [1] - 101:16
barista [5] - 38:5, 38:12, 42:11, 42:13, 42:14

baristas [1] - 42:18
Barnes [1] - 6:10
bartender [1] - 42:15
based [15] - 11:2, 36:18, 44:11, 50:16, 64:16, 76:15, 76:19, 83:16, 109:3, 109:4, 116:16, 119:8, 135:21, 136:7
basis [2] - 80:2, 91:14
become [1] - 105:14
BEFORE [1] - 1:1
beginning [1] - 110:13
behalf [3] - 2:9, 94:11, 102:11
behind [1] - 24:10
belated [1] - 48:23
belatedly [1] - 44:19
believes [1] - 52:8
Belterra [6] - 29:22, 33:4, 43:17, 43:20, 46:13, 68:18
better [1] - 32:7
between [5] - 38:19, 78:18, 93:15, 110:17, 114:4
biased [1] - 137:23
big [4] - 23:14, 123:23, 129:22, 135:14
binder [1] - 28:20
binders [1] - 3:11
binding [11] - 93:15, 93:16, 94:7, 94:17, 96:15, 97:1, 97:12, 108:2, 108:9, 112:9, 113:6
bit [5] - 4:14, 32:10, 40:14, 45:19, 95:13
BLACKBURN [34] - 5:18, 7:6, 7:18, 8:3, 17:12, 18:11, 18:19, 19:1, 19:18, 20:12, 21:7, 22:4, 22:8, 22:12, 28:3, 29:14, 32:21, 49:18, 49:20, 54:1, 54:11, 55:16, 60:2, 60:6, 60:15, 61:1, 61:21, 62:1, 62:15, 109:21, 115:17, 117:5, 117:11, 120:23
blackburn [1] - 74:6
Blackburn [30] - 2:4, 5:15, 5:17, 7:5, 8:2, 17:11, 18:10, 18:18, 18:22, 19:17, 20:11, 21:6, 22:3, 22:7, 28:1, 29:13, 32:13, 32:21, 49:16, 54:6, 54:8, 56:19, 60:13,

61:10, 61:19, 62:14, 115:13, 115:16, 117:10, 120:22
BLAND [86] - 8:8, 8:14, 8:21, 9:1, 9:7, 9:13, 9:17, 10:1, 10:11, 10:22, 11:11, 11:15, 12:7, 12:12, 12:23, 13:14, 13:18, 14:5, 14:9, 14:13, 14:16, 14:20, 15:4, 15:18, 15:20, 16:3, 16:9, 16:13, 16:17, 16:19, 122:19, 123:3, 127:10, 128:13, 128:17, 129:5, 129:13, 130:9, 130:18, 131:13, 132:5, 132:8, 132:14, 132:20, 133:1, 133:5, 133:7, 133:11, 133:16, 133:21, 134:3, 134:21, 134:23, 135:3, 135:11, 135:20, 135:23, 136:5, 136:8, 136:12, 136:15, 136:19, 136:22, 137:3, 137:9, 137:12, 137:15, 137:18, 137:21, 138:4, 138:8, 138:11, 138:20, 139:5, 139:8, 139:11, 139:18, 140:19, 140:23, 141:7, 141:11, 141:16, 142:1, 142:9, 142:12, 142:15
Bland [3] - 2:17, 7:11, 122:18
bland [2] - 123:4
blue [4] - 76:12, 76:16, 76:22, 134:12
BMV [1] - 19:21
Board [4] - 103:21, 107:16, 114:9, 114:11
board [6] - 25:11, 95:5, 99:1, 99:2, 113:15, 114:12
Bob [1] - 77:9
body [4] - 95:4, 107:7, 134:4
body's [1] - 107:9
book [5] - 76:12, 76:16, 76:22, 77:2,

77:10
breaking [1] - 33:18
Bremer [2] - 41:9, 86:12
brief [12] - 38:6, 44:5, 44:11, 44:23, 47:11, 47:16, 47:22, 48:7, 48:17, 63:4, 72:9, 73:22
briefly [1] - 102:16
briefs [2] - 40:11, 58:5
Brighton [1] - 1:22
bring [3] - 75:11, 80:18, 139:7
broad [1] - 91:22
broken [1] - 127:20
brother [1] - 126:13
brought [4] - 38:9, 79:4, 113:8, 129:6
budge [1] - 94:14
bunch [1] - 66:16
Burbrink [9] - 77:4, 87:17, 105:7, 106:6, 111:16, 111:17, 111:19, 111:22, 112:6
Burbrink's [3] - 87:19, 106:12, 107:2
burden [3] - 92:9, 101:14, 130:15
Burget [2] - 105:6, 112:11
burget's [1] - 112:18
business [6] - 3:15, 3:18, 6:8, 6:9, 21:15, 133:14
butt [1] - 124:3
butts [1] - 123:15

C

calcu [1] - 37:5
calculation [11] - 37:5, 37:6, 37:7, 37:8, 51:13, 51:14, 51:22, 56:11, 57:19
calculations [2] - 51:8, 61:6
camera [22] - 9:2, 9:4, 9:8, 9:10, 9:22, 10:2, 10:13, 11:16, 13:6, 13:10, 14:9, 14:10, 15:20, 15:22, 15:23, 16:1, 16:12, 128:5
camera's [3] - 123:9, 125:15, 125:16
cameras [1] - 133:15
cannot [6] - 12:5, 38:17, 44:9, 45:18, 45:22, 119:9

captioned [1] - 1:10
car [1] - 125:10
care [3] - 7:11, 22:2, 138:23
Carleana [1] - 6:10
Carmel [1] - 1:22
Caroline [1] - 2:11
carries [1] - 62:21
carry [2] - 92:9, 101:14
case [74] - 6:11, 7:9, 7:10, 8:11, 8:17, 8:18, 9:6, 11:7, 12:8, 12:22, 13:4, 14:23, 15:13, 15:15, 15:19, 16:22, 17:21, 18:17, 18:21, 19:1, 19:20, 19:21, 20:18, 21:20, 21:21, 21:22, 21:23, 22:6, 25:14, 28:16, 28:22, 28:23, 29:3, 29:20, 33:4, 34:2, 35:21, 44:1, 49:2, 50:1, 54:23, 64:11, 68:18, 71:1, 73:8, 74:11, 84:5, 84:18, 86:22, 88:11, 88:19, 89:23, 90:4, 90:6, 91:11, 95:9, 98:23, 103:16, 116:7, 119:4, 119:10, 119:13, 119:17, 119:19, 120:15, 122:3, 130:23, 137:22, 138:1, 140:3, 140:16, 140:21, 141:2
cases [6] - 21:17, 22:5, 27:6, 28:19, 131:1, 138:3
casino [2] - 29:22, 33:5
Caucasian [9] - 77:4, 100:11, 100:18, 106:7, 106:8, 124:21, 127:3, 130:2, 131:6
Cavaness [1] - 21:21
CCCH [1] - 31:2
Center [2] - 1:15, 2:7
center [1] - 17:23
central [1] - 92:8
CERTIFICATE [1] - 143:1
certified [8] - 77:6, 77:12, 78:2, 79:4, 87:20, 106:10, 106:18, 109:11
certify [1] - 143:5
Chair [1] - 120:3

chair [10] - 32:6, 97:13, 119:7, 119:10, 120:2, 120:4, 120:6, 120:7, 120:14, 121:13
CHAIRMAN [313] - 3:3, 4:16, 5:2, 5:7, 5:9, 5:13, 5:17, 5:19, 5:21, 5:23, 6:15, 6:18, 6:20, 7:1, 7:3, 7:5, 7:7, 7:14, 7:17, 7:19, 7:23, 8:2, 8:4, 8:6, 8:10, 8:16, 8:23, 9:5, 9:23, 10:3, 10:17, 11:6, 11:13, 12:4, 12:8, 12:14, 13:11, 13:16, 14:14, 14:17, 14:22, 15:6, 15:10, 16:21, 17:3, 17:6, 17:8, 17:13, 17:15, 17:17, 17:19, 18:1, 18:4, 18:6, 18:10, 18:12, 18:14, 18:16, 18:21, 19:4, 19:7, 19:9, 19:13, 19:15, 19:17, 19:19, 20:2, 20:4, 20:8, 20:10, 20:13, 20:15, 20:17, 21:2, 21:4, 21:8, 21:10, 21:12, 21:14, 22:5, 22:10, 22:13, 22:18, 22:21, 24:10, 24:17, 25:21, 26:19, 27:2, 27:23, 28:11, 28:23, 29:7, 29:9, 29:13, 29:15, 29:17, 29:19, 30:4, 30:8, 30:12, 30:17, 30:20, 31:4, 31:15, 31:21, 32:2, 32:5, 32:15, 32:20, 32:22, 33:3, 33:8, 33:15, 33:21, 34:8, 34:12, 34:19, 36:2, 36:7, 36:11, 36:14, 37:3, 37:10, 37:12, 38:13, 39:1, 39:9, 39:14, 39:19, 39:22, 41:8, 41:11, 42:17, 42:21, 43:7, 43:9, 43:12, 43:14, 45:5, 46:19, 49:4, 49:6, 49:12, 49:15, 49:22, 53:4, 53:9, 54:4, 54:8, 54:18, 55:3, 55:9, 55:17, 56:2, 56:13, 56:16, 56:19, 57:3, 57:18, 58:12, 58:17, 59:3, 59:8, 59:12, 59:16, 59:20, 59:23, 60:8, 60:13, 60:18,

60:22, 61:2, 61:5, 61:9, 61:12, 61:16, 61:19, 61:22, 62:2, 62:5, 62:7, 62:9, 62:14, 62:16, 62:18, 62:20, 62:23, 63:6, 63:15, 63:21, 64:1, 64:4, 64:22, 65:9, 65:13, 65:20, 65:23, 66:19, 67:16, 67:22, 68:4, 68:10, 68:13, 68:15, 68:21, 69:12, 69:16, 70:4, 70:13, 70:22, 71:9, 71:12, 71:16, 72:5, 72:11, 72:18, 73:4, 73:12, 73:15, 73:22, 74:3, 74:19, 74:23, 75:16, 75:20, 76:3, 76:6, 79:16, 79:19, 79:23, 80:21, 84:23, 85:3, 86:11, 86:14, 86:17, 86:19, 86:23, 87:3, 87:7, 87:10, 88:9, 88:12, 88:18, 88:22, 89:7, 89:10, 89:15, 90:2, 90:10, 90:16, 90:20, 91:3, 91:5, 91:8, 93:22, 94:3, 104:10, 104:13, 109:14, 109:17, 109:20, 109:22, 114:22, 115:2, 115:12, 115:16, 115:18, 115:23, 116:13, 116:20, 116:22, 117:6, 117:12, 117:14, 117:16, 117:20, 118:2, 118:7, 118:10, 118:16, 118:20, 119:16, 119:23, 120:13, 120:18, 120:20, 121:1, 121:3, 121:5, 121:11, 122:5, 122:8, 122:12, 122:16, 123:1, 130:15, 130:20, 133:3, 133:10, 133:12, 133:18, 133:22, 137:17, 137:19, 137:22, 138:6, 141:18, 141:22, 142:7, 142:16, 142:19
chairman [2] - 79:1, 106:5
Chairman [3] - 1:12, 2:3, 58:11
challenge [2] - 91:16,

91:17
challenged [3] - 95:1, 97:7, 98:6
challenging [2] - 93:2, 98:10
chance [1] - 66:11
change [6] - 56:8, 56:11, 56:22, 80:5, 108:7
changed [2] - 51:4, 108:14
changes [1] - 35:17
chapter [1] - 71:13
charge [2] - 92:18, 113:9
charged [1] - 35:23
charges [1] - 103:16
Charlie [3] - 31:3
chat [1] - 15:7
check [1] - 98:21
cheering [1] - 27:19
choice [1] - 107:13
choices [2] - 34:6, 115:22
choose [1] - 15:3
circle [2] - 95:14
circuit [1] - 103:20
cite [1] - 72:12
cited [6] - 38:7, 46:9, 46:10, 75:5, 111:18
cites [1] - 99:18
citing [3] - 71:8, 71:11, 71:21
City [1] - 143:4
CIVIL [2] - 1:2, 2:6
civil [2] - 107:11, 113:7
Civil [4] - 1:11, 3:4, 28:5, 141:4
claim [1] - 104:1
claims [1] - 103:2
clairvoyant [1] - 109:9
clarification [2] - 37:16, 57:7
clarify [2] - 49:23, 60:2
clarifying [3] - 40:1, 55:4, 55:6
Clark [1] - 19:20
clear [6] - 60:16, 60:23, 127:6, 127:7, 131:7, 142:10
clearly [8] - 65:12, 93:4, 99:6, 99:10, 103:3, 104:7, 114:15, 131:11
clerk [3] - 85:10, 121:14, 121:15
clock [1] - 103:15
close [3] - 68:9, 134:7
closed [8] - 37:23,

<p>44:3, 45:10, 68:20, 68:22, 72:1, 73:1, 82:5</p> <p>closer [1] - 41:18</p> <p>closing [1] - 125:2</p> <p>CM [1] - 1:21</p> <p>Code [1] - 92:17</p> <p>code [2] - 76:10, 82:3</p> <p>cold [1] - 4:15</p> <p>collective [1] - 101:16</p> <p>collusion [9] - 78:4, 78:18, 79:2, 79:12, 85:8, 86:2, 108:17, 109:7</p> <p>coming [4] - 83:19, 98:19, 127:3, 142:8</p> <p>COMM [193] - 5:6, 5:8, 5:12, 5:18, 5:20, 5:22, 6:17, 6:19, 6:23, 7:2, 7:4, 7:6, 7:10, 7:16, 7:18, 7:22, 8:1, 8:3, 8:5, 9:12, 9:15, 10:18, 11:1, 14:3, 14:8, 14:11, 17:1, 17:5, 17:7, 17:12, 17:14, 17:16, 17:18, 17:21, 18:3, 18:5, 18:9, 18:11, 18:13, 18:15, 18:19, 19:1, 19:6, 19:8, 19:12, 19:14, 19:16, 19:18, 20:1, 20:3, 20:7, 20:9, 20:12, 20:14, 20:16, 21:1, 21:3, 21:7, 21:9, 21:11, 21:13, 22:4, 22:8, 22:12, 27:4, 27:13, 27:16, 27:19, 28:3, 28:7, 29:6, 29:8, 29:12, 29:14, 29:16, 29:18, 30:2, 30:5, 32:21, 33:1, 33:2, 34:11, 36:13, 49:11, 49:14, 49:18, 49:19, 49:20, 54:1, 54:6, 54:11, 55:16, 56:10, 57:1, 57:5, 57:7, 57:11, 57:19, 58:11, 58:14, 58:16, 58:23, 59:11, 59:15, 60:2, 60:6, 60:15, 61:1, 61:21, 62:1, 62:4, 62:6, 62:8, 62:13, 62:15, 62:17, 62:19, 63:2, 66:18, 68:8, 68:19, 70:17, 70:23, 73:1, 73:11, 81:6, 81:15, 81:18, 81:21, 82:18, 83:4, 83:8, 83:15,</p>	<p>84:10, 84:14, 84:17, 85:2, 85:5, 85:13, 93:20, 109:16, 109:19, 109:21, 115:13, 115:17, 115:21, 116:9, 116:10, 116:12, 116:15, 116:21, 117:4, 117:5, 117:11, 117:13, 117:15, 117:23, 118:6, 118:15, 119:2, 119:15, 120:1, 120:10, 120:17, 120:19, 120:23, 121:2, 121:4, 121:8, 121:21, 122:1, 122:4, 122:7, 134:19, 134:22, 135:2, 135:8, 135:17, 135:21, 136:3, 136:6, 136:10, 136:13, 136:17, 136:20, 137:1, 137:6, 137:11, 137:13, 138:9, 138:19, 139:2, 139:6</p> <p>Comm [88] - 5:14, 5:15, 5:17, 5:19, 5:21, 6:22, 7:1, 7:3, 7:5, 7:9, 7:21, 7:23, 8:2, 8:4, 10:17, 16:23, 17:9, 17:11, 17:13, 17:15, 17:17, 17:20, 18:8, 18:10, 18:12, 18:14, 18:18, 18:22, 19:11, 19:13, 19:15, 19:17, 20:6, 20:8, 20:10, 20:11, 20:13, 20:15, 21:6, 21:8, 21:10, 21:12, 21:22, 21:23, 22:3, 22:7, 27:23, 28:1, 29:11, 29:13, 29:15, 29:17, 32:13, 32:21, 49:13, 49:15, 49:16, 54:6, 54:8, 56:19, 56:20, 58:13, 60:10, 60:13, 61:10, 61:19, 62:2, 62:5, 62:7, 62:12, 62:14, 62:16, 62:18, 74:6, 74:7, 74:8, 75:2, 89:16, 115:13, 115:16, 117:7, 117:10, 117:12, 117:14, 120:22, 121:1, 121:3</p> <p>comment [4] - 4:7, 9:16, 28:4, 118:11</p>	<p>comments [5] - 11:14, 75:18, 118:4, 122:17, 142:17</p> <p>COMMISSION [4] - 1:2, 2:2, 2:6, 2:10</p> <p>commission [50] - 4:1, 4:9, 10:6, 12:19, 14:18, 15:14, 15:16, 25:9, 26:17, 27:11, 27:22, 33:8, 33:16, 34:9, 35:11, 35:14, 35:23, 39:15, 40:9, 40:15, 44:23, 48:3, 50:6, 50:22, 51:2, 52:1, 52:8, 52:11, 53:17, 53:22, 64:13, 65:2, 67:11, 67:15, 69:22, 73:5, 73:8, 76:8, 77:8, 80:13, 80:15, 82:6, 84:8, 92:2, 119:12, 140:22, 141:2, 141:5</p> <p>Commission [9] - 1:11, 2:9, 3:5, 16:16, 26:13, 28:5, 57:22, 66:1, 143:15</p> <p>commission's [1] - 47:21</p> <p>Commission's [4] - 3:22, 66:4, 66:13, 80:19</p> <p>commissioner [5] - 37:18, 52:16, 52:18, 52:23, 55:7</p> <p>commissioners [13] - 3:17, 3:20, 6:3, 21:16, 22:20, 27:10, 49:7, 67:16, 68:4, 113:5, 114:22, 115:19, 117:19</p> <p>Commissioners [2] - 4:22, 120:8</p> <p>committee [3] - 92:7, 98:12, 102:4</p> <p>communicate [1] - 105:15</p> <p>communication [5] - 38:5, 38:12, 39:20, 42:10, 48:21</p> <p>communications [2] - 47:8, 51:9</p> <p>communities [1] - 22:2</p> <p>company [3] - 21:20, 93:17, 131:1</p> <p>comparator [1] - 111:18</p> <p>comparison [1] - 24:14</p> <p>complainant [2] -</p>	<p>12:21, 42:13</p> <p>Complainant [9] - 25:16, 35:20, 42:11, 65:3, 65:14, 75:1, 76:21, 77:15, 78:5</p> <p>Complainant's [6] - 41:14, 41:21, 42:4, 45:8, 46:4, 63:19</p> <p>Complainants' [1] - 21:16</p> <p>complained [1] - 104:21</p> <p>complaining [1] - 103:3</p> <p>complaint [11] - 15:13, 77:19, 91:13, 92:15, 93:3, 103:8, 104:20, 113:19, 115:4, 116:2, 117:1</p> <p>complaints [3] - 23:19, 23:23, 24:9</p> <p>complete [2] - 52:16, 141:6</p> <p>complicity [1] - 79:13</p> <p>comply [1] - 114:20</p> <p>comprehend [1] - 72:13</p> <p>concerning [1] - 38:4</p> <p>concerns [1] - 90:3</p> <p>concert [2] - 18:18, 18:22</p> <p>conclude [1] - 83:6</p> <p>concluded [5] - 92:3, 102:5, 102:13, 112:12, 142:22</p> <p>conclusion [2] - 64:8, 114:17</p> <p>conclusions [6] - 37:21, 41:16, 42:6, 88:4, 89:4, 101:13</p> <p>conditions [2] - 87:21, 106:13</p> <p>conducting [1] - 29:23</p> <p>conference [1] - 4:20</p> <p>conferences [1] - 121:19</p> <p>confirm [1] - 68:5</p> <p>conflict [2] - 119:5, 119:20</p> <p>confused [1] - 57:11</p> <p>confusion [1] - 59:1</p> <p>connection [6] - 88:6, 91:15, 100:1, 106:22, 111:7, 111:22</p> <p>consider [3] - 66:9, 81:8, 84:19</p> <p>consideration [1] - 31:13</p> <p>considered [8] -</p>	<p>69:21, 77:23, 78:21, 79:22, 81:11, 81:14, 82:13, 85:12</p> <p>constitution [1] - 101:18</p> <p>Constitution [3] - 98:3, 107:4, 107:10</p> <p>constitutional [1] - 94:22</p> <p>contained [2] - 43:5, 69:20</p> <p>contend [4] - 91:23, 92:10, 101:1, 101:7</p> <p>contended [2] - 91:13, 95:21</p> <p>contends [3] - 97:16, 97:17, 111:21</p> <p>contention [1] - 100:14</p> <p>context [1] - 33:14</p> <p>continue [3] - 23:12, 23:15, 68:9</p> <p>continued [1] - 98:22</p> <p>continuing [3] - 24:2, 102:23, 103:10</p> <p>contract [8] - 93:14, 94:16, 96:4, 96:10, 101:17, 111:3, 112:8, 112:15</p> <p>contractual [1] - 93:10</p> <p>conversation [3] - 82:21, 89:16, 121:12</p> <p>coordinate [1] - 121:22</p> <p>copy [2] - 71:4, 84:13</p> <p>corporation [1] - 96:16</p> <p>correct [9] - 36:11, 61:1, 63:1, 63:2, 82:18, 86:12, 100:12, 101:3, 143:6</p> <p>corrected [1] - 33:23</p> <p>correction [2] - 33:23, 34:5</p> <p>correctly [1] - 112:12</p> <p>corrects [1] - 47:12</p> <p>corroborate [2] - 78:20, 86:5</p> <p>corroborates [1] - 85:8</p> <p>counsel [8] - 38:13, 41:8, 43:12, 48:3, 49:17, 69:13, 70:9, 86:14</p> <p>Counsel [1] - 26:14</p> <p>counsel's [1] - 113:14</p> <p>counter [2] - 46:20, 80:8</p> <p>countercomment [1] - 72:5</p>
---	---	---	--	---

counterpoints [1] - 90:17
counts [1] - 116:20
County [3] - 1:14, 140:18, 143:4
couple [2] - 23:6, 44:8
course [2] - 5:11, 78:22
Court [3] - 65:5, 103:16, 143:3
court [12] - 64:12, 64:20, 66:17, 70:1, 71:19, 72:13, 107:11, 128:9, 130:13, 140:16, 140:21, 142:10
create [1] - 23:4
created [2] - 15:14, 39:17
credibly [1] - 111:19
crept [1] - 24:8
cross [1] - 110:8
cross-examine [1] - 110:8
cue [1] - 31:22
Cynthia [4] - 2:17, 31:2, 31:18, 32:8

D

D.C. [1] - 113:13
d/b/a [1] - 1:21
D/B/A [1] - 22:2
damages [4] - 25:6, 25:23, 26:7, 56:8
Daniels [1] - 1:21
data [1] - 24:14
date [4] - 98:7, 98:17, 98:18, 103:23
dated [1] - 77:19
dates [2] - 4:5, 121:8
daughter [7] - 123:10, 125:5, 126:8, 129:2, 129:23, 134:5, 134:8
Dave [4] - 97:13, 106:5, 106:11, 107:1
days [12] - 44:3, 92:17, 96:4, 96:6, 98:7, 98:16, 102:8, 106:20, 109:1, 110:2, 111:3, 129:10
de [1] - 35:3
dead [1] - 125:2
deadline [2] - 89:12, 89:14
deal [2] - 96:18, 112:7
deceit [1] - 78:4
deceive [1] - 78:12
decide [1] - 106:4
decided [5] - 11:3,

69:9, 94:12, 95:6, 98:13
decision [85] - 8:12, 13:23, 14:1, 15:16, 15:21, 34:15, 34:18, 35:3, 35:15, 35:16, 36:12, 40:10, 40:12, 40:16, 49:8, 50:22, 50:23, 51:3, 51:15, 55:19, 55:21, 56:7, 56:21, 58:3, 58:9, 58:19, 65:6, 66:3, 66:5, 66:7, 66:14, 67:12, 67:17, 67:18, 68:1, 68:16, 68:17, 69:10, 70:19, 71:1, 73:17, 80:9, 82:15, 83:22, 85:4, 85:18, 85:21, 88:23, 89:1, 90:10, 90:18, 91:18, 92:1, 92:11, 92:14, 93:16, 94:8, 94:16, 96:13, 97:1, 97:4, 97:19, 98:8, 99:10, 100:8, 103:18, 104:8, 107:7, 107:16, 108:8, 108:14, 112:9, 112:12, 113:23, 114:2, 114:15, 115:7, 115:9, 116:23, 117:8, 132:15, 132:16, 141:1
decision's [2] - 63:6, 80:3
decisions [7] - 3:21, 22:14, 28:13, 74:10, 79:20, 94:23, 98:5
decline [3] - 69:17, 70:7, 71:22
dedicated [1] - 28:5
Deering [4] - 127:7, 138:14, 139:20, 139:21
defer [1] - 47:15
definitely [1] - 26:21
Delaware [1] - 103:13
delay [1] - 49:2
demonstrate [2] - 69:19, 130:16
demonstrated [1] - 131:12
denial [2] - 103:6, 114:7
denied [8] - 67:7, 69:1, 91:20, 92:7, 92:21, 93:1, 115:7, 116:4
denominations [1] -

131:2
denote [2] - 84:6, 86:6
denoted [1] - 86:6
deny [5] - 70:8, 73:9, 82:20, 100:9, 117:2
deposition [5] - 45:8, 45:11, 46:4, 46:22, 47:4
Deputy [2] - 2:7, 26:13
deputy [8] - 3:13, 7:12, 8:12, 11:4, 19:22, 28:2, 39:2, 39:10
described [1] - 36:4
desk [2] - 123:20, 126:9
details [2] - 27:5, 42:22
determination [8] - 38:1, 50:10, 53:18, 54:13, 54:21, 55:12, 82:6, 112:21
determine [1] - 93:11
determined [2] - 42:10, 99:8
Detroit [1] - 104:22
Develan [4] - 2:17, 7:11, 123:3, 123:4
different [4] - 105:17, 111:23, 112:14, 112:15
differently [3] - 99:23, 100:11, 108:19
difficult [1] - 45:22
direct [3] - 47:20, 60:9, 66:20
directed [2] - 48:14, 51:12
directions [2] - 36:15, 39:12
directly [1] - 23:2
Director [5] - 2:7, 6:7, 11:4, 39:10, 66:19
director [10] - 3:12, 3:14, 8:11, 8:13, 11:8, 15:7, 21:17, 26:13, 28:2, 39:2
Director's [7] - 6:12, 7:12, 11:4, 17:2, 23:3, 58:18, 59:6
director's [6] - 3:20, 6:5, 15:1, 19:22, 20:22, 22:15
disability [4] - 24:1, 24:3, 24:6, 24:7
discovery [2] - 44:3, 44:16
discrete [2] - 103:1, 103:3
discretion [2] - 80:19

discrimin [1] - 130:17
discriminated [3] - 91:14, 101:10, 131:5
discrimination [20] - 25:11, 85:9, 86:2, 92:10, 92:18, 99:15, 101:15, 104:6, 105:4, 105:22, 106:22, 129:22, 131:14, 136:14, 138:5, 138:8, 138:11, 138:12, 140:6
discuss [5] - 31:16, 33:18, 58:6, 81:3, 87:11
discussing [1] - 87:13
discussion [16] - 11:7, 43:2, 56:4, 59:14, 59:17, 59:23, 65:13, 68:6, 69:5, 73:21, 74:14, 79:15, 87:8, 90:14, 115:20, 118:12
discussions [1] - 115:10
dismiss [9] - 29:3, 34:2, 34:6, 34:10, 36:17, 115:10, 116:6, 116:23
dismissal [2] - 28:18, 29:4
dismissed [5] - 14:23, 28:17, 113:10, 115:5, 116:2
disposes [1] - 66:14
dispute [1] - 93:8
disrespectful [3] - 125:14, 126:11, 129:18
disturb [1] - 114:2
diversity [1] - 27:17
docket [2] - 85:10, 121:15
Docket [1] - 121:14
doctor [4] - 124:19, 126:2, 126:5, 131:19
doctrine [1] - 102:23
document [7] - 77:21, 78:3, 78:8, 78:20, 78:21, 84:4, 88:8
documentation [1] - 131:8
documents [18] - 28:20, 50:19, 77:22, 78:1, 79:22, 80:18, 81:17, 81:19, 82:16, 83:7, 83:10, 85:11, 86:4, 86:10, 87:14, 89:5, 89:20, 90:12

done [16] - 26:20, 27:3, 35:19, 42:8, 67:8, 67:13, 71:6, 80:6, 102:18, 102:20, 122:6, 130:13, 131:19, 134:15
Doneisha [2] - 2:7, 3:13
down [13] - 3:13, 111:13, 111:14, 124:1, 124:2, 128:23, 129:6, 139:5, 139:9, 139:13, 139:15, 139:16, 142:8
drop [1] - 74:8
dropped [1] - 32:13
drowned [1] - 112:3
due [1] - 107:14
during [10] - 32:19, 37:12, 39:14, 40:11, 40:18, 71:21, 71:23, 75:3, 95:19, 99:16
Dusan's [1] - 46:15
duty [1] - 107:6
DYER [1] - 75:23

E

e-mail [1] - 118:23
eagle [1] - 22:2
echo [1] - 60:20
EEOC [2] - 104:1, 119:22
effectively [1] - 112:22
effort [1] - 49:1
either [12] - 34:6, 49:17, 50:22, 67:13, 67:17, 70:7, 82:14, 83:2, 96:2, 98:7, 98:15, 125:22
elements [2] - 6:9, 116:1
emergency [1] - 77:16
emphatically [1] - 87:15
employ [1] - 26:5
employed [1] - 26:4
employee [6] - 96:15, 98:7, 99:22, 100:11, 100:18, 101:2, 114:18, 114:19
employee's [1] - 103:22
employees [5] - 42:18, 95:17, 95:18, 101:18, 102:1
employer [3] - 25:17, 26:4, 112:14

employment [3] - 25:13, 87:21, 103:18
EMra16071322 [1] - 119:21
end [8] - 4:12, 9:16, 25:23, 80:12, 97:15, 100:21, 114:3, 114:10
ended [2] - 71:23, 73:10
enforce [1] - 113:7
enjoyed [1] - 26:20
enter [1] - 92:2
entered [5] - 6:14, 75:8, 76:18, 89:20, 90:12
entertain [1] - 113:2
entitled [2] - 93:7, 95:11
environment [1] - 103:2
Eromosele [2] - 2:12, 121:15
erred [1] - 89:9
error [5] - 33:23, 63:13, 70:16, 71:22, 102:22
essentially [2] - 73:7, 111:17
established [2] - 103:14, 114:19
establishing [1] - 101:14
ethics [2] - 4:9, 118:23
event [2] - 53:20, 67:7
events [2] - 103:1, 103:4
evidence [5] - 10:5, 13:12, 38:3, 38:8, 43:21, 44:17, 44:19, 50:13, 66:5, 66:6, 66:10, 70:10, 71:19, 72:2, 73:3, 73:7, 73:18, 75:5, 75:8, 76:2, 76:11, 76:12, 76:14, 77:7, 77:20, 80:23, 81:11, 82:8, 82:12, 83:5, 84:9, 88:21, 90:12, 92:4, 92:6, 97:21, 99:7, 100:9, 100:17, 100:23, 101:5, 101:9, 101:13, 101:21, 104:19, 116:16, 130:21, 131:5, 131:7, 134:2, 141:3
evident [1] - 138:1
evil [2] - 131:16, 134:10

exact [1] - 51:10
exactly [4] - 37:9, 51:4, 52:2, 78:6
exam [6] - 94:6, 96:12, 96:18, 102:12, 111:9, 111:11
examination [1] - 109:2
examine [1] - 110:8
examiner [5] - 93:11, 93:14, 94:7, 96:14, 96:23
examiners [1] - 96:20
example [3] - 51:20, 52:1, 101:15
examples [1] - 88:6
excuse [20] - 8:8, 37:17, 53:5, 100:20, 108:3, 133:8, 133:11, 134:21, 135:15, 135:18, 136:2, 136:4, 138:14, 138:15, 138:17, 138:21, 139:18, 139:19, 139:20
executive [3] - 6:7, 11:8, 15:7
exhaust [4] - 107:5, 107:8, 107:13, 113:18
exhibit [2] - 99:11, 99:13
Exhibit [4] - 77:18, 96:13, 97:6, 106:9
exhibits [4] - 76:17, 76:20, 76:21, 77:1
exist [1] - 52:13
existed [1] - 101:20
expenses [3] - 115:6, 116:4, 117:2
experience [1] - 50:17
expres [1] - 143:15
explain [9] - 9:11, 33:12, 33:19, 40:14, 45:19, 51:8, 51:9, 51:19, 84:3
explained [2] - 36:9, 84:3
explaining [2] - 77:6, 84:2
explains [1] - 47:11
explanation [2] - 47:17, 134:13
explored [1] - 44:16
extent [1] - 66:9
extra [1] - 77:1
extremely [1] - 87:16

F

face [1] - 124:11
fact [11] - 12:20, 37:20, 41:16, 42:6, 64:8, 81:1, 92:15, 104:5, 135:19, 136:4
facts [8] - 46:13, 78:20, 85:8, 86:1, 89:4, 122:23, 132:16, 139:7
failed [3] - 107:23, 108:18, 114:20
failure [1] - 103:5
fair [4] - 137:15, 137:16, 137:18, 137:21
familiar [1] - 72:21
far [6] - 32:10, 107:4, 118:19, 125:6, 127:3, 134:15
fast [1] - 108:3
fault [1] - 132:22
favor [25] - 7:19, 8:11, 8:15, 8:20, 9:3, 9:9, 9:21, 10:15, 11:20, 11:23, 13:9, 16:20, 17:9, 18:6, 19:9, 20:4, 21:4, 29:10, 62:11, 111:13, 111:15, 117:7, 120:20, 140:9, 140:13
February [1] - 72:1
felt [1] - 69:21
few [2] - 3:21, 4:9
file [13] - 12:9, 12:12, 14:17, 15:11, 16:8, 92:18, 97:4, 108:18, 140:16, 140:21, 141:6, 142:12
filed [20] - 15:13, 37:19, 38:6, 41:14, 41:20, 42:4, 53:14, 91:17, 91:19, 92:12, 93:3, 94:10, 94:21, 98:6, 98:9, 102:6, 102:15, 107:17, 113:9, 113:19
filing [3] - 103:8, 103:15, 104:4
final [22] - 15:17, 38:1, 50:9, 53:17, 54:20, 55:11, 58:9, 66:14, 68:16, 82:6, 92:2, 93:15, 93:16, 94:7, 94:16, 96:14, 96:23, 97:12, 107:15, 108:2, 108:9, 141:1
Finch [1] - 21:22

findings [16] - 3:21, 6:12, 17:2, 21:17, 37:20, 41:15, 42:6, 55:21, 59:6, 59:9, 60:9, 62:10, 64:8, 67:12, 89:4, 116:19
fine [2] - 90:13, 142:15
finish [1] - 4:6
fired [3] - 96:3, 108:21, 109:10
first [20] - 3:15, 6:9, 13:4, 21:18, 28:14, 45:9, 46:1, 46:7, 52:15, 65:10, 69:4, 74:21, 75:1, 76:2, 100:22, 104:15, 118:23, 119:10, 120:2, 122:19
five [11] - 21:17, 22:6, 24:4, 44:3, 74:15, 96:4, 96:6, 104:14, 111:3, 112:3, 114:20
five-day [1] - 114:20
five-year-old [1] - 112:3
flew [1] - 139:9
floor [1] - 58:15
focus [1] - 48:18
folder [1] - 28:22
folders [1] - 28:21
follow [5] - 12:14, 15:3, 36:15, 39:12, 74:13
followed [1] - 24:1
following [5] - 3:6, 36:4, 36:21, 128:21, 128:23
follows [1] - 97:22
footage [4] - 11:18, 11:19, 11:20, 13:7, 13:13, 13:19, 13:21, 13:22, 14:7, 128:6, 128:8, 128:10, 128:12, 128:14, 128:18, 128:19, 128:21, 129:16, 130:10, 130:11, 130:12, 132:10, 132:11, 132:12, 132:18, 132:19, 132:21, 133:2, 133:3, 133:8, 134:18, 134:22, 135:1, 135:6, 135:7, 135:9, 135:16, 135:22, 136:11, 136:23, 137:2
footnote [4] - 47:10, 47:16, 47:19, 47:21
foregoing [1] - 143:5

forgive [1] - 122:20
formalized [1] - 23:22
former [1] - 25:17
Fort [1] - 95:16
forward [2] - 138:7, 141:14
four [14] - 22:5, 23:2, 34:13, 45:7, 46:3, 52:3, 66:2, 66:11, 68:17, 69:9, 94:18, 98:20, 106:17, 139:3
fracture [2] - 127:19, 127:20
Fran [1] - 127:11
frankly [1] - 95:10
free [2] - 13:8, 125:15
Friday [2] - 1:16, 143:7
front [13] - 16:8, 28:21, 56:12, 56:23, 57:1, 57:3, 58:19, 61:12, 61:15, 61:17, 115:8, 128:9, 140:10
full [3] - 14:3, 23:4, 84:18
fully [4] - 72:12, 107:8, 126:2, 126:16
funding [1] - 55:22

G

gained [1] - 114:13
gas [1] - 139:16
general [4] - 46:16, 108:5, 113:14, 131:4
General [4] - 26:13, 78:19, 79:14, 108:20
generally [1] - 131:3
gentleman [1] - 129:8
gentlemen [1] - 117:18
girl [1] - 123:14
given [3] - 10:5, 85:19, 114:1
Glance [1] - 23:1
GM [17] - 93:8, 93:15, 94:13, 95:16, 95:20, 95:22, 96:1, 96:19, 97:10, 106:11, 107:22, 108:11, 110:17, 111:1, 111:12, 112:6, 112:23
goal [2] - 25:8, 25:9
God [2] - 28:8, 137:10
golf [1] - 18:18
Golf [1] - 18:23
Government [2] - 1:14, 2:7
governmental [1] -

107:11
granted [1] - 63:11
great [4] - 26:20,
 26:22, 28:8, 119:2
griev [1] - 98:10
grievance [75] - 78:7,
 78:9, 78:14, 78:15,
 87:18, 87:19, 88:1,
 91:15, 91:19, 92:5,
 92:21, 92:22, 93:2,
 94:11, 94:20, 94:21,
 95:8, 97:5, 97:7,
 97:14, 97:19, 97:22,
 98:2, 98:11, 98:21,
 99:2, 99:6, 99:9,
 99:23, 100:16,
 101:20, 101:23,
 102:8, 102:11,
 102:13, 102:20,
 103:4, 103:5,
 103:14, 103:17,
 103:23, 104:16,
 104:18, 105:1,
 105:3, 105:5, 105:6,
 105:7, 105:8, 105:9,
 105:11, 105:18,
 105:21, 105:23,
 106:1, 106:5, 106:9,
 106:13, 106:23,
 107:3, 108:1,
 108:18, 111:8,
 112:18, 112:20,
 112:21, 113:1,
 114:5, 114:6, 114:15
grievances [4] - 95:1,
 98:5, 101:19, 112:23
grievant [1] - 105:20
grounds [3] - 83:16,
 83:19, 113:10
grow [1] - 23:12
guard [2] - 123:22,
 126:14
guess [6] - 24:13,
 30:22, 68:10, 70:6,
 135:23, 137:3
guide [1] - 24:21
guidelines [2] -
 127:22, 131:20
guys [7] - 38:19,
 67:13, 82:10, 82:11,
 85:17, 113:5, 142:2

H

Hahn [2] - 2:17, 31:2
Hamilton [1] - 17:22
hand [2] - 31:6, 52:7
handle [3] - 12:2,
 131:8, 140:5
handled [3] - 99:23,

100:10, 131:6
handling [1] - 102:3
handwritten [1] -
 25:17
happy [5] - 23:13,
 26:8, 45:1, 74:19,
 122:9
harbor [2] - 95:9,
 99:11
hard [3] - 41:22,
 45:21, 50:4
Harrington [20] - 2:4,
 5:19, 7:1, 7:21,
 17:15, 17:20, 18:12,
 19:13, 20:15, 21:12,
 21:23, 29:15, 49:13,
 56:20, 62:5, 62:16,
 74:7, 117:7, 117:12,
 121:1
HARRINGTON [65] -
 5:8, 5:20, 6:19, 7:2,
 7:16, 7:22, 17:5,
 17:16, 17:21, 18:13,
 19:6, 19:14, 20:3,
 20:16, 21:3, 21:13,
 27:13, 29:8, 29:16,
 33:1, 49:14, 54:6,
 62:6, 62:17, 66:18,
 70:17, 70:23, 83:15,
 84:10, 84:14, 84:17,
 85:2, 85:5, 93:20,
 116:9, 116:12,
 117:4, 117:13,
 120:1, 120:10,
 120:19, 121:2,
 121:8, 121:21,
 122:1, 122:4,
 134:19, 135:2,
 135:8, 135:17,
 135:21, 136:3,
 136:6, 136:10,
 136:13, 136:17,
 136:20, 137:1,
 137:6, 137:11,
 137:13, 138:9,
 138:19, 139:2, 139:6
Hassanin [1] - 16:22
hateful [1] - 131:16
head [7] - 49:11, 62:8,
 64:3, 68:12, 109:16,
 124:1, 124:2
HEALY [42] - 37:17,
 38:15, 38:23, 41:10,
 41:13, 41:20, 42:1,
 42:4, 42:8, 42:14,
 42:16, 43:3, 45:7,
 45:16, 46:3, 46:6,
 46:9, 46:12, 46:15,
 53:5, 53:12, 53:16,
 53:20, 54:16, 54:20,

54:23, 55:11, 63:9,
 63:23, 66:23, 67:5,
 68:23, 69:6, 69:18,
 70:11, 70:14, 71:2,
 71:5, 71:14, 72:7,
 72:15, 73:19
Healy [17] - 2:12,
 41:10, 41:12, 42:22,
 55:6, 69:13, 71:20,
 72:6, 72:19, 76:13,
 77:11, 77:14, 86:16,
 86:17, 86:18, 87:1,
 88:14
hear [22] - 31:22, 32:7,
 41:1, 54:2, 54:11,
 54:12, 54:15, 55:2,
 55:5, 56:20, 60:21,
 65:12, 73:3, 76:11,
 77:1, 77:8, 80:20,
 82:15, 84:9, 115:12,
 135:5, 135:18
heard [7] - 9:19,
 29:20, 76:2, 84:16,
 116:16, 116:17,
 138:19
hearing [40] - 30:1,
 35:6, 35:7, 35:8,
 35:12, 35:22, 37:23,
 40:7, 44:3, 44:18,
 45:10, 46:23, 47:5,
 47:11, 47:16, 50:13,
 50:17, 74:10, 75:7,
 76:10, 76:13, 77:16,
 77:19, 78:11, 78:13,
 78:16, 81:8, 82:4,
 82:5, 84:20, 99:7,
 99:16, 99:20,
 100:17, 103:12,
 110:2, 121:18,
 142:19
hearings [3] - 72:16,
 78:9, 78:10
hearsay [1] - 110:5
held [1] - 112:23
hello [1] - 31:1
help [10] - 33:19, 58:9,
 65:5, 80:5, 119:13,
 135:18, 137:8,
 137:14, 142:2, 142:3
helping [3] - 26:17,
 27:5, 131:22
helps [1] - 24:21
Henry [1] - 31:3
hereby [1] - 143:5
Hick's [1] - 76:18
Hicks [11] - 2:15,
 76:20, 77:11, 80:7,
 82:23, 87:12, 90:17,
 91:3, 91:9, 104:11,
 114:23

HICKS [12] - 75:2,
 75:12, 75:19, 86:16,
 91:4, 91:7, 91:9,
 94:1, 94:4, 110:1,
 110:11, 117:19
highest [1] - 23:23
highlight [1] - 23:6
highlighted [2] -
 23:21, 130:22
Holli [1] - 2:4
Honor [4] - 45:7, 53:6,
 70:12, 73:19
hopefully [2] - 23:12,
 23:15
hospital [1] - 119:21
hostile [1] - 103:2
hostility [3] - 95:9,
 99:11, 99:12
hot [1] - 127:13
hours [1] - 128:16
housing [1] - 20:19
hurt [1] - 125:11

I

I.D [1] - 31:2
IAC [3] - 37:22, 72:15,
 76:10
IC [1] - 76:9
ICRC [5] - 6:5, 72:12,
 91:13, 107:17,
 119:21
ICRC's [1] - 3:11
idea [2] - 110:4, 110:7
identified [1] - 12:4
identify [5] - 30:22,
 76:3, 91:5, 99:22,
 123:1
ignorant [2] - 139:1,
 139:3
IME [15] - 93:13,
 108:8, 108:10,
 108:14, 108:15,
 108:21, 108:22,
 108:23, 109:3,
 109:4, 109:5,
 109:10, 109:13,
 110:12, 112:1
IMO [1] - 109:5
impartially [1] - 31:8
implemented [1] -
 111:8
important [5] - 25:1,
 25:19, 38:10, 87:16,
 127:5
imposed [1] - 107:8
improper [1] - 66:8
improperly [1] - 108:4
include [8] - 81:19,
 81:23, 82:21, 83:5,

83:9, 85:14, 95:5,
 98:13
Included [3] - 43:4,
 60:16, 63:7
includes [1] - 62:23
Including [3] - 63:5,
 88:13, 131:2
Incomplete [4] - 52:9,
 52:13, 52:18, 52:22
inconsistent [3] -
 95:22, 96:20, 110:9
Incorrect [2] - 37:6,
 113:21
Independent [12] -
 93:11, 93:13, 94:6,
 95:4, 96:11, 96:14,
 96:17, 96:19, 96:23,
 102:12, 111:9
INDIANA [3] - 1:1,
 1:21, 2:6
Indiana [17] - 1:10,
 1:13, 1:14, 1:16,
 1:22, 2:7, 2:8, 3:4,
 4:8, 21:19, 71:2,
 76:9, 92:17, 113:7,
 141:4, 143:4, 143:13
Indianapolis [2] -
 1:16, 2:8
individual [3] -
 101:22, 107:6, 107:8
Individually [3] - 5:10,
 7:20, 117:9
individuals [1] -
 137:23
Indy [5] - 7:11, 9:19,
 123:4, 140:19, 142:6
Indy's [1] - 14:2
Information [42] -
 10:8, 10:9, 10:19,
 11:9, 12:6, 12:18,
 33:17, 49:7, 49:10,
 49:17, 50:2, 50:7,
 52:13, 52:21, 52:23,
 63:22, 64:14, 64:16,
 64:21, 65:5, 65:16,
 68:2, 69:11, 69:17,
 79:23, 83:18, 83:21,
 84:20, 85:6, 87:1,
 88:3, 89:17, 89:21,
 89:22, 90:5, 95:13,
 123:13, 123:14,
 124:7, 126:13,
 126:18, 141:4
Informed [1] - 98:1
informing [3] - 87:20,
 106:19, 108:12
initial [7] - 37:20,
 40:10, 40:16, 41:15,
 42:5, 57:13, 64:8
initiative [1] - 23:11

<p>injury [2] - 127:19, 127:21</p> <p>inquiries [2] - 23:7, 23:16</p> <p>insert [2] - 45:10, 46:7</p> <p>instantaneous [1] - 30:14</p> <p>instead [2] - 35:19, 36:3</p> <p>instructed [1] - 87:5</p> <p>instructions [1] - 37:2</p> <p>intake [1] - 23:2</p> <p>interest [1] - 99:18</p> <p>interesting [4] - 24:19, 55:18, 122:6</p> <p>internal [7] - 98:4, 103:14, 103:22, 104:2, 107:5, 107:14, 113:18</p> <p>international [2] - 95:6, 103:12</p> <p>International [1] - 112:19</p> <p>interpret [1] - 31:9</p> <p>interpreted [55] - 32:1, 33:7, 44:4, 44:13, 44:21, 45:4, 46:8, 46:11, 46:14, 46:18, 47:6, 47:9, 48:1, 48:5, 48:10, 48:13, 48:16, 48:22, 49:3, 49:21, 50:3, 50:8, 50:11, 50:15, 50:20, 51:1, 51:6, 51:11, 51:17, 52:6, 52:10, 53:3, 53:15, 53:19, 53:23, 54:3, 54:10, 56:1, 56:5, 56:18, 57:6, 58:4, 58:10, 58:22, 60:12, 61:4, 61:8, 61:11, 61:18, 65:19, 68:3, 68:7, 68:14, 70:3, 73:20</p> <p>Interpreted [20] - 32:11, 33:20, 35:1, 35:4, 35:13, 36:1, 36:10, 39:13, 39:18, 39:21, 40:2, 40:8, 41:7, 42:7, 42:20, 43:8, 43:18, 43:23, 46:5, 56:15</p> <p>Interpreter [1] - 2:17</p> <p>interpreter [8] - 4:23, 30:7, 30:9, 31:17, 38:20, 45:17, 57:17, 69:8</p> <p>INTERPRETER [55] - 31:1, 31:14, 31:19, 31:23, 32:4, 32:9, 33:11, 34:3, 34:16,</p>	<p>34:21, 35:9, 36:5, 38:17, 39:5, 40:13, 40:21, 41:1, 41:5, 41:17, 41:22, 42:3, 42:12, 42:15, 42:19, 44:7, 45:14, 45:17, 47:1, 47:13, 47:18, 47:23, 51:18, 51:21, 52:14, 53:2, 53:10, 54:22, 55:1, 55:8, 56:17, 57:16, 59:18, 59:21, 60:1, 60:4, 60:11, 60:19, 61:14, 62:22, 65:11, 65:18, 67:20, 69:3, 69:7, 69:15</p> <p>interrupt [2] - 32:13, 75:3</p> <p>introduce [1] - 38:8</p> <p>introduced [1] - 45:12</p> <p>introduction [1] - 43:21</p> <p>Invest [1] - 35:6</p> <p>investi [1] - 16:2</p> <p>investigate [4] - 12:1, 12:5, 14:6, 90:7</p> <p>investigated [1] - 15:14</p> <p>investigating [1] - 10:14</p> <p>investigation [2] - 104:2, 119:6</p> <p>investigative [2] - 14:4, 80:22</p> <p>investigator [4] - 10:19, 10:20, 15:8, 16:2</p> <p>invoked [2] - 93:10, 96:9</p> <p>Involved [3] - 25:15, 96:15, 119:5</p> <p>involving [1] - 48:8</p> <p>Irrelevant [2] - 48:15, 49:1</p> <p>issue [11] - 38:4, 44:15, 47:8, 48:19, 51:10, 51:13, 60:6, 85:23, 86:22, 92:13, 111:23</p> <p>issued [3] - 93:14, 94:7, 96:23</p> <p>issues [4] - 3:15, 3:18, 42:10, 48:8</p> <p>it'll [1] - 122:5</p> <p>item [6] - 5:3, 22:13, 28:12, 29:20, 74:9, 117:21</p> <p>items [2] - 81:15, 81:18</p> <p>itself [1] - 9:11</p>	<p style="text-align: center;">J</p> <p>Jackson [18] - 2:5, 7:3, 7:23, 16:23, 17:17, 18:8, 19:15, 20:6, 21:8, 27:23, 29:11, 49:15, 58:13, 60:10, 62:2, 62:12, 74:8, 109:17</p> <p>JACKSON [20] - 5:12, 7:4, 8:1, 17:1, 17:18, 18:5, 18:9, 19:16, 20:7, 20:9, 21:9, 28:7, 29:12, 49:19, 58:11, 58:14, 59:11, 59:15, 62:4, 62:13</p> <p>jackson [1] - 5:14</p> <p>James [2] - 2:5, 19:20</p> <p>Janet [1] - 104:21</p> <p>Jason [1] - 17:22</p> <p>Joan [1] - 126:12</p> <p>Joanie [1] - 124:10</p> <p>job [20] - 26:20, 46:17, 93:9, 93:12, 94:8, 95:21, 96:1, 96:2, 96:20, 97:1, 106:13, 107:20, 107:22, 108:10, 108:13, 108:15, 110:22, 110:23, 111:11, 113:7</p> <p>Joe [1] - 43:16</p> <p>Johnson [1] - 20:18</p> <p>jointly [1] - 28:17</p> <p>Jonathan [2] - 105:6, 112:11</p> <p>Jordan [2] - 28:15, 29:1</p> <p>Joseph [1] - 2:15</p> <p>journey [2] - 26:18, 27:14</p> <p>Jr [3] - 1:12, 143:2, 143:11</p> <p>Judge [22] - 3:8, 4:17, 16:5, 28:13, 33:16, 36:3, 38:10, 40:17, 45:13, 56:21, 64:10, 70:16, 92:8, 99:15, 101:12, 102:22, 103:9, 128:9, 135:13, 140:11</p> <p>JUDGE [21] - 3:9, 4:19, 28:14, 30:6, 30:10, 30:15, 32:12, 32:17, 118:13, 118:18, 118:21, 119:3, 119:18, 120:4, 120:12, 121:6, 121:13, 121:23, 122:2,</p>	<p>122:11, 122:14</p> <p>Judge's [4] - 34:18, 35:3, 92:13, 112:12</p> <p>Judge's [2] - 113:23, 114:2</p> <p>July [6] - 91:20, 93:1, 102:19, 104:17, 110:20, 110:21</p> <p>jump [1] - 23:14</p> <p>June [5] - 78:17, 87:18, 97:13, 106:4, 107:20</p> <p>jury [1] - 72:14</p> <p>justice [1] - 130:4</p> <p>justification [1] - 44:18</p> <p>justly [1] - 31:8</p> <p style="text-align: center;">K</p> <p>keep [6] - 68:19, 68:21, 118:22, 119:1, 128:11, 137:6</p> <p>kept [1] - 105:20</p> <p>key [1] - 39:1</p> <p>Kimberly [1] - 22:1</p> <p>kind [4] - 9:18, 24:15, 25:7, 126:22</p> <p>king [1] - 77:9</p> <p>knowing [1] - 78:6</p> <p>known [4] - 98:8, 98:19, 102:7, 105:20</p> <p style="text-align: center;">L</p> <p>L.L.C [2] - 22:2</p> <p>Labor [1] - 105:18</p> <p>lady [10] - 13:4, 13:5, 123:13, 123:14, 123:19, 123:20, 124:6, 126:12, 126:18</p> <p>lady's [1] - 126:19</p> <p>language [4] - 46:16, 94:15, 97:12, 134:4</p> <p>large [1] - 28:18</p> <p>last [18] - 4:1, 20:20, 24:6, 26:11, 26:12, 29:21, 32:18, 33:15, 36:16, 40:19, 40:23, 41:3, 41:4, 41:5, 74:4, 90:21, 128:5, 139:11</p> <p>late [3] - 3:14, 48:12, 113:1</p> <p>lately [2] - 24:4, 24:8</p> <p>latitude [1] - 83:14</p> <p>law [13] - 37:21, 38:9, 40:17, 41:16, 42:6, 45:13, 48:15, 64:9,</p>	<p>88:4, 89:4, 93:4, 113:22</p> <p>lawyer [3] - 16:4, 128:6, 135:13</p> <p>lawyer's [1] - 71:20</p> <p>lead [1] - 24:5</p> <p>learned [1] - 78:13</p> <p>least [4] - 14:23, 26:11, 92:20, 98:20</p> <p>leave [1] - 95:20</p> <p>leaves [1] - 97:20</p> <p>Ledoris [1] - 119:20</p> <p>left [1] - 109:19</p> <p>Letourneau [3] - 79:2, 79:7, 79:9</p> <p>letter [21] - 77:9, 77:13, 78:2, 79:4, 87:20, 101:6, 106:10, 106:18, 108:12, 109:1, 109:11, 111:1, 114:20, 123:5, 123:6, 125:7, 129:5, 129:7, 130:9, 139:12</p> <p>letters [1] - 110:14</p> <p>level [1] - 70:21</p> <p>likely [1] - 98:20</p> <p>limitations [2] - 102:21, 103:19</p> <p>Lindy [3] - 1:12, 143:2, 143:11</p> <p>line [8] - 4:21, 99:20, 100:12, 100:20, 100:21, 100:22, 120:6, 123:22</p> <p>lines [3] - 10:6, 12:19, 100:7</p> <p>link [1] - 114:3</p> <p>Lisa [2] - 18:17, 18:22</p> <p>listed [1] - 29:22</p> <p>listen [6] - 80:6, 80:7, 85:1, 90:16, 130:6, 135:4</p> <p>listening [3] - 79:17, 80:4, 136:17</p> <p>live [1] - 50:18</p> <p>Local [3] - 101:10, 112:16, 117:3</p> <p>local [24] - 4:3, 74:12, 78:3, 79:13, 91:11, 91:14, 91:18, 91:20, 92:4, 92:21, 93:1, 95:5, 95:16, 98:10, 98:12, 99:8, 99:23, 100:8, 100:10, 102:18, 103:11, 112:14, 112:19, 115:5</p> <p>Local's [1] - 102:2</p> <p>locate [1] - 77:5</p>
--	---	---	---	--

logic [1] - 24:10
look [13] - 40:16, 85:5, 96:1, 98:13, 111:2, 112:8, 128:18, 135:23, 136:1, 136:22, 136:23, 137:3, 137:7
looked [2] - 24:14, 131:16
looking [3] - 25:4, 27:8, 131:15
looks [1] - 40:9
lord [1] - 130:3
lose [2] - 26:3, 26:6
louder [1] - 18:20
Lymon [47] - 2:16, 4:2, 74:12, 76:5, 91:13, 92:9, 92:19, 93:6, 93:13, 93:17, 93:18, 94:5, 94:9, 94:19, 95:15, 95:19, 95:21, 96:17, 96:22, 97:3, 97:9, 97:11, 97:16, 97:17, 97:22, 98:9, 98:22, 99:8, 99:12, 100:7, 100:14, 101:9, 101:13, 103:3, 104:14, 109:15, 110:17, 110:21, 111:20, 112:7, 112:17, 112:22, 113:8, 113:16, 113:17, 114:1
LYMON [43] - 75:10, 75:14, 76:1, 76:5, 76:7, 79:18, 79:21, 80:10, 81:4, 81:13, 81:16, 81:20, 82:2, 82:22, 83:6, 83:11, 84:2, 84:12, 84:15, 84:22, 85:7, 85:16, 86:13, 86:18, 86:21, 87:2, 87:5, 87:9, 87:13, 88:10, 88:16, 88:19, 89:2, 89:9, 89:13, 89:19, 90:9, 90:11, 90:15, 90:19, 90:22, 104:15, 110:10
Lymon's [9] - 92:5, 92:14, 99:16, 100:2, 100:12, 101:3, 101:20, 101:22, 115:4

M

ma'am [3] - 14:14, 15:22, 135:18

mad [2] - 124:4, 128:22
mail [3] - 77:7, 118:23, 140:5
main [2] - 13:2, 13:22
male [4] - 77:4, 87:22, 106:7, 106:8
male's [1] - 107:3
man [3] - 124:23, 125:2, 134:11
management [10] - 78:19, 79:3, 79:10, 79:11, 79:14, 106:12, 107:2, 107:23, 108:5, 108:6
manager [2] - 104:21, 135:5
March [2] - 103:12, 107:15
Marion [1] - 140:17
mark [9] - 77:4, 106:6, 106:12, 107:2, 111:16, 111:17, 111:18, 111:22, 112:6
Mark [1] - 105:7
marketing [2] - 23:11, 24:21
material [9] - 37:19, 38:4, 41:15, 42:5, 43:4, 46:12, 53:7, 53:13, 55:13
materials [2] - 40:17, 54:14
matter [7] - 1:10, 4:1, 25:16, 44:15, 113:21, 141:13, 143:7
Matthew [1] - 101:16
Matthews [13] - 97:14, 97:15, 97:18, 97:20, 98:13, 98:15, 100:23, 101:22, 106:5, 106:11, 107:1, 111:19, 112:5
McDonald's [1] - 6:10
mean [23] - 8:9, 9:20, 23:3, 23:13, 33:13, 77:11, 79:16, 80:5, 80:23, 81:1, 81:5, 83:3, 87:14, 89:1, 113:4, 122:21, 131:3, 131:5, 131:14, 131:16, 134:9, 135:13, 137:17

means [5] - 8:10, 12:1, 24:16, 50:1, 64:18
medlatlon [1] - 25:13
mediations [1] - 25:5

medical [15] - 93:11, 93:14, 94:6, 94:7, 95:22, 96:12, 96:14, 96:18, 96:19, 96:23, 102:12, 107:18, 109:2, 111:9, 111:10
MEETING [1] - 1:5
meeting [11] - 3:4, 3:10, 4:2, 4:13, 9:18, 26:13, 33:16, 33:22, 34:5, 36:7, 74:8
meetings [1] - 4:5
member [2] - 102:4, 112:13
members [1] - 95:6
MEMBERS [1] - 2:2
mentioned [1] - 120:15
merit [2] - 95:7, 102:14
merits [2] - 30:1, 66:14
met [1] - 110:6
method [1] - 103:17
Meyer [3] - 1:12, 143:2, 143:11
Michael [1] - 2:12
Michigan [1] - 104:22
microphone [1] - 41:19
might [2] - 6:2, 91:1
mind [1] - 94:2
minute [2] - 30:16, 90:21
minutes [13] - 3:10, 4:11, 5:4, 44:6, 44:11, 74:1, 74:15, 75:17, 88:11, 88:20, 89:23, 104:14
misheard [1] - 52:17
miss [1] - 89:13
missed [2] - 44:8, 89:11
misstatement [1] - 113:21
misstatements [1] - 47:12
misunderstanding [1] - 46:2
moment [1] - 57:18
Monday [2] - 141:22, 141:23
monetary [2] - 25:6, 26:7
money [3] - 25:15, 26:3, 26:6
month [14] - 23:5, 23:8, 23:14, 23:17, 23:22, 26:15, 29:21, 40:20, 40:23, 41:3,

41:4, 41:5, 43:2, 102:21
monthly [1] - 22:23
months [3] - 24:5, 92:17, 103:8
moot [1] - 95:10
most [2] - 98:20, 133:19
motion [59] - 5:5, 5:23, 6:15, 7:8, 7:14, 8:6, 15:11, 17:3, 18:1, 19:5, 19:23, 20:23, 29:2, 29:4, 38:1, 43:3, 43:5, 45:1, 56:13, 56:20, 58:15, 58:17, 58:18, 59:4, 59:5, 59:10, 59:13, 59:19, 60:8, 60:17, 62:9, 62:21, 63:11, 63:17, 63:19, 63:21, 64:4, 64:10, 65:3, 65:14, 65:17, 65:20, 66:4, 67:7, 68:11, 68:23, 69:20, 70:6, 70:8, 73:5, 82:7, 115:12, 116:14, 120:13, 120:16, 120:21
motion's [3] - 73:10, 116:22, 117:16
motions [1] - 6:21
Motors [4] - 78:19, 79:14, 108:5, 108:20
move [7] - 3:12, 6:6, 32:2, 32:5, 32:10, 68:8, 116:18
moved [11] - 5:6, 6:17, 7:16, 17:5, 18:3, 19:6, 20:1, 21:1, 29:6, 119:15, 120:17
moving [1] - 26:14
MR [132] - 37:17, 38:15, 38:23, 41:10, 41:13, 41:20, 42:1, 42:4, 42:8, 42:14, 42:16, 43:3, 43:11, 43:13, 43:15, 43:19, 44:1, 44:5, 44:10, 44:14, 44:22, 45:7, 45:16, 46:3, 46:6, 46:9, 46:12, 46:15, 46:21, 47:3, 47:7, 47:10, 47:15, 47:20, 48:2, 48:6, 48:11, 48:14, 48:17, 48:23, 49:5, 53:5, 53:12, 53:16, 53:20, 54:16, 54:20, 54:23, 55:11, 63:9, 63:18, 63:23, 64:3, 65:7, 65:22,

66:1, 66:23, 67:5, 68:23, 69:6, 69:18, 70:11, 70:14, 71:2, 71:4, 71:5, 71:7, 71:10, 71:14, 71:18, 72:7, 72:15, 72:21, 73:2, 73:14, 73:19, 75:2, 75:10, 75:12, 75:14, 75:19, 75:23, 76:1, 76:5, 76:7, 79:18, 79:21, 80:10, 81:4, 81:13, 81:16, 81:20, 82:2, 82:22, 83:6, 83:11, 84:2, 84:12, 84:15, 84:22, 85:7, 85:16, 86:13, 86:16, 86:18, 86:21, 87:2, 87:5, 87:9, 87:13, 88:10, 88:16, 88:19, 89:2, 89:9, 89:13, 89:19, 90:9, 90:11, 90:15, 90:19, 90:22, 91:4, 91:7, 91:9, 94:1, 94:4, 104:15, 110:1, 110:10, 110:11, 117:19

MRI [1] - 127:16

MS [172] - 8:8, 8:14, 8:21, 9:1, 9:7, 9:13, 9:17, 10:1, 10:11, 10:22, 11:11, 11:15, 12:7, 12:12, 12:23, 13:14, 13:18, 14:5, 14:9, 14:13, 14:16, 14:20, 15:4, 15:9, 15:12, 15:18, 15:19, 15:20, 16:1, 16:3, 16:6, 16:9, 16:11, 16:13, 16:15, 16:17, 16:18, 16:19, 22:17, 22:19, 22:22, 24:12, 24:18, 25:22, 27:1, 27:12, 27:15, 27:18, 27:20, 28:6, 28:10, 34:14, 34:17, 34:22, 35:2, 35:5, 35:11, 35:14, 36:23, 37:4, 37:11, 40:3, 40:9, 40:15, 40:23, 41:3, 41:6, 50:4, 50:9, 50:12, 50:16, 50:21, 51:2, 51:7, 51:12, 51:20, 51:23, 52:7, 52:11, 52:20, 56:6, 57:10, 57:13, 58:1, 58:5, 59:7, 63:20, 64:7, 65:2, 67:2, 67:11, 68:12, 122:18, 122:19, 123:3, 127:9,

127:10, 128:10,
128:13, 128:15,
128:17, 129:4,
129:5, 129:12,
129:13, 130:8,
130:9, 130:18,
131:13, 132:3,
132:5, 132:7, 132:8,
132:13, 132:14,
132:17, 132:20,
132:23, 133:1,
133:5, 133:6, 133:7,
133:11, 133:16,
133:21, 134:3,
134:21, 134:23,
135:3, 135:11,
135:20, 135:23,
136:5, 136:8,
136:12, 136:15,
136:19, 136:22,
137:3, 137:9,
137:12, 137:15,
137:18, 137:21,
138:4, 138:8,
138:11, 138:20,
139:5, 139:8,
139:10, 139:11,
139:17, 139:18,
140:15, 140:19,
140:20, 140:23,
141:1, 141:7, 141:9,
141:11, 141:13,
141:16, 141:19,
141:23, 142:1,
142:9, 142:11,
142:12, 142:14,
142:15
multipage [1] - 48:6
multiple [1] - 110:14
must [13] - 12:18,
37:4, 50:22, 51:3,
51:12, 51:13, 52:2,
52:12, 52:19, 58:2,
105:19, 105:20
mute [1] - 6:2
mutually [1] - 108:8

N

N300 [2] - 1:15, 2:8
name [9] - 30:22, 31:2,
43:16, 75:14, 77:13,
77:17, 91:5, 123:3,
124:9
named [1] - 123:14
National [1] - 105:18
nature [1] - 91:1
nay [1] - 6:21
necessary [3] - 63:10,
72:8, 83:13

neck [1] - 125:23
need [69] - 3:12, 3:16,
4:18, 5:4, 5:7, 6:15,
6:18, 6:20, 7:14,
7:17, 17:3, 17:6,
18:1, 18:4, 19:5,
19:7, 19:23, 20:2,
20:22, 21:2, 24:22,
24:23, 27:14, 29:4,
29:7, 30:2, 30:5,
30:6, 36:12, 36:15,
36:16, 36:17, 36:18,
37:8, 43:1, 49:8,
49:9, 49:16, 55:4,
59:10, 59:12, 59:13,
64:4, 65:20, 66:10,
68:11, 70:5, 70:6,
70:7, 70:18, 80:18,
83:18, 115:8,
115:19, 116:13,
117:3, 117:23,
118:3, 119:6,
119:16, 120:13,
120:16, 120:18,
130:5, 140:9

needed [2] - 80:23,
85:17

needs [3] - 10:5,
39:11, 50:6

negotiate [1] - 112:5

negotiated [2] -
106:12, 107:2

Nelson [1] - 70:15

nerves [1] - 65:8

net [2] - 42:22, 73:16

never [16] - 9:18,
45:12, 48:18, 94:1,
94:9, 97:2, 97:18,
110:6, 111:16,
111:18, 111:20,
112:10, 112:23,
139:21, 142:3

new [8] - 3:18, 21:15,
26:15, 27:14, 37:8,
44:19, 69:11, 103:15
newer [1] - 27:10
next [22] - 5:3, 7:9,
18:17, 19:20, 21:20,
21:22, 21:23, 22:13,
23:14, 28:8, 28:12,
29:20, 70:21, 73:23,
74:9, 117:21, 120:3,
120:6, 127:13,
128:21, 128:22,
140:3

nice [1] - 32:10

NLRA [1] - 113:4

NLRB [1] - 113:9

noise [1] - 6:4

none [1] - 142:19

normal [1] - 34:8

North [4] - 1:15, 2:7,
2:8

northern [1] - 21:19

Notary [3] - 1:13,
143:3, 143:12

note [3] - 23:18,
28:19, 43:20

noted [1] - 23:22

nothing [13] - 14:21,
47:7, 48:20, 83:17,
106:2, 113:15,
114:13, 123:16,
123:17, 139:3,
139:22, 140:3

notice [7] - 81:10,
100:15, 100:19,
103:5, 111:2,
111:20, 114:5

notification [2] -
101:1, 101:23

notified [1] - 101:19

November [1] - 78:16

nowhere [1] - 48:19

number [13] - 3:14,
23:7, 23:12, 23:15,
23:16, 23:22, 23:23,
24:7, 25:8, 25:9,
30:23, 92:3, 92:14

O

o'clock [5] - 1:17, 3:1,
126:7, 141:18,
142:22

oath [1] - 31:9

object [1] - 75:4

objected [3] - 53:13,
64:2, 65:16

objecting [1] - 63:19

objection [9] - 45:3,
53:6, 53:17, 53:21,
55:14, 64:17, 65:4,
76:15, 76:19

objections [5] - 67:23,
75:4, 75:6, 89:3,
92:12

objective [1] - 85:23

objects [1] - 43:20

obligation [1] - 107:5

obviously [2] - 75:13,
113:5

occurred [1] - 103:7

OCTOBER [1] - 1:5

October [7] - 1:16,
3:1, 3:5, 104:23,
105:1, 142:22, 143:7

OF [3] - 1:1, 1:5, 1:21

offended [1] - 123:16

offense [1] - 107:19

offer [14] - 53:22,
55:15, 63:12, 63:14,
64:18, 67:6, 67:10,
69:1, 69:19, 69:23,
70:11, 70:13, 71:13,
71:23

office [1] - 113:14

officer [1] - 96:1

official [1] - 70:5

old [6] - 3:15, 6:8, 6:9,
112:3, 124:5, 126:23

once [6] - 15:9, 15:12,
15:13, 66:13, 72:1,
140:22

one [48] - 3:19, 3:23,
6:9, 16:10, 23:14,
24:8, 25:8, 25:9,
32:5, 40:14, 42:9,
48:11, 55:20, 57:21,
64:5, 66:2, 66:11,
66:12, 68:17, 69:9,
74:4, 77:3, 77:7,
77:11, 77:22, 78:1,
78:17, 78:23, 80:14,
87:17, 92:3, 92:14,
103:2, 105:10,
105:14, 110:19,
110:20, 112:23,
116:1, 118:22,
119:19, 124:22,
128:7, 133:17,
135:12, 138:1, 139:2

ones [2] - 87:17, 134:6

ongoing [1] - 113:20

open [14] - 12:1, 56:3,
59:14, 67:17, 68:5,
71:22, 76:10, 78:14,
78:15, 80:15,
115:10, 140:9, 141:2

opening [2] - 59:16,
90:5

opportunity [9] -
26:15, 26:21, 28:9,
46:20, 77:5, 87:11,
88:13, 88:15, 90:3

oppose [1] - 89:5

options [7] - 34:1,
49:23, 55:19, 80:8,
96:2, 115:23, 116:7

oral [9] - 4:3, 29:20,
39:14, 40:12, 40:19,
40:22, 43:2, 75:4,
81:10

orally [1] - 98:1

order [25] - 3:3, 14:15,
29:2, 29:5, 30:21,
33:22, 34:5, 35:18,
37:21, 41:16, 42:6,
42:9, 56:8, 57:13,
57:20, 58:2, 58:3,

58:7, 59:1, 59:9,
64:9, 92:2, 99:12,
110:13, 115:3

ordered [3] - 33:16,
99:3, 107:22

orders [11] - 3:22,
22:14, 28:13, 33:9,
36:3, 36:8, 36:18,
36:21, 39:3, 61:6,
74:10

organized [1] - 121:16

oriented [1] - 131:11

original [2] - 57:8,
57:20

Ortho [6] - 7:11, 9:19,
14:2, 123:4, 140:19,
142:6

ostensibly [1] - 78:23

OTHER [1] - 2:10

otherwise [1] - 46:1

ought [1] - 12:1

ourselves [1] - 27:9

outburst [1] - 129:17

outside [2] - 10:10,
36:8

outstanding [1] -
36:19

overall [1] - 48:20

own [5] - 73:5, 80:15,
82:7, 92:12, 99:16

P

p.m [3] - 1:17, 3:1,
142:22

pace [1] - 119:20

page [15] - 23:1, 23:2,
23:19, 23:21, 46:22,
47:3, 58:1, 60:18,
61:5, 96:13, 99:20,
100:6, 100:20,
100:21, 100:22

pain [2] - 127:14,
134:16

paper [2] - 10:12, 13:5

papers [2] - 11:11,
129:7

paperwork [2] - 16:14

paragraph [6] - 96:5,
96:9, 96:11, 108:3,
108:7, 108:19

Paragraph [2] - 108:4,
111:8

paraphrase [1] - 64:23

pardon [3] - 22:4,
62:22, 86:13

part [9] - 25:18, 55:20,
67:21, 74:9, 75:16,
82:1, 104:2, 110:5,
131:9

<p>participate [1] - 103:11</p> <p>participated [1] - 96:17</p> <p>particular [5] - 8:11, 33:4, 34:2, 120:15, 131:1</p> <p>particularly [2] - 131:9, 133:23</p> <p>parties [12] - 25:14, 26:8, 28:17, 29:3, 37:18, 40:11, 40:18, 44:17, 50:14, 58:6, 73:23, 85:1</p> <p>partnering [2] - 24:22, 24:23</p> <p>partners [2] - 18:18, 18:23</p> <p>parts [2] - 33:9, 45:10</p> <p>party [4] - 38:2, 73:6, 82:7, 108:9</p> <p>pass [1] - 87:11</p> <p>passes [1] - 6:1</p> <p>past [1] - 24:4</p> <p>pause [11] - 30:13, 30:18, 30:19, 31:22, 32:16, 33:6, 45:2, 50:7, 57:23, 72:17, 118:9</p> <p>pay [18] - 56:12, 56:23, 57:1, 57:2, 57:3, 57:4, 58:19, 58:20, 60:7, 60:16, 60:23, 61:13, 61:17, 99:3</p> <p>payment [1] - 99:3</p> <p>penalties [1] - 31:7</p> <p>penalty [1] - 107:8</p> <p>pendency [1] - 103:17</p> <p>pending [2] - 44:2, 64:10</p> <p>people [9] - 13:3, 26:1, 123:8, 126:10, 127:3, 131:7, 136:21, 140:7, 142:4</p> <p>per [1] - 23:16</p> <p>percent [4] - 51:15, 51:16, 52:3</p> <p>percentage [1] - 52:5</p> <p>Perez [1] - 22:1</p> <p>perfectly [2] - 127:6, 127:7</p> <p>perform [5] - 93:9, 93:12, 93:18, 94:8, 110:22</p> <p>period [1] - 4:6</p> <p>perjury [1] - 31:7</p> <p>permitting [1] - 4:8</p> <p>person [6] - 13:2, 25:7, 25:8, 26:2,</p>	<p>101:6, 119:10</p> <p>pertinent [1] - 88:3</p> <p>Pettygrove [7] - 2:15, 43:16, 53:6, 53:12, 63:16, 71:14, 72:20</p> <p>PETTYGROVE [34] - 43:11, 43:13, 43:15, 43:19, 44:1, 44:5, 44:10, 44:14, 44:22, 46:21, 47:3, 47:7, 47:10, 47:15, 47:20, 48:2, 48:6, 48:11, 48:14, 48:17, 48:23, 49:5, 63:18, 64:3, 65:7, 65:22, 66:1, 71:4, 71:7, 71:10, 71:18, 72:21, 73:2, 73:14</p> <p>pettygrove's [2] - 55:14, 63:10</p> <p>phone [7] - 4:21, 4:22, 5:1, 30:21, 32:13, 74:5, 139:22</p> <p>piece [2] - 36:16, 130:22</p> <p>pieces [2] - 42:23, 77:7</p> <p>pink [1] - 28:22</p> <p>place [8] - 40:19, 40:22, 61:7, 96:18, 105:11, 133:15, 135:5, 135:22</p> <p>placed [1] - 107:20</p> <p>plant [7] - 95:16, 95:17, 97:21, 104:22, 105:15, 106:16, 110:21</p> <p>plants [1] - 95:18</p> <p>Plastic [1] - 103:21</p> <p>play [1] - 135:6</p> <p>plenty [12] - 128:18, 128:19, 128:20, 130:11, 130:12, 132:20, 133:1, 133:7, 134:16, 134:17, 135:6, 138:16</p> <p>plus [9] - 13:3, 40:10, 40:17, 124:19, 125:6, 126:4, 129:1, 131:20</p> <p>point [31] - 12:16, 14:23, 24:12, 37:18, 38:11, 38:12, 40:4, 43:22, 44:20, 45:2, 47:17, 48:15, 49:1, 51:19, 55:4, 57:20, 67:15, 68:22, 69:13, 70:17, 82:16, 93:5, 101:8, 105:3,</p>	<p>105:22, 111:10, 114:14, 116:15, 118:10, 136:4, 140:15</p> <p>pointing [1] - 102:10</p> <p>points [6] - 40:1, 41:9, 74:17, 80:7, 86:5, 91:23</p> <p>policy [1] - 101:20</p> <p>pool [1] - 112:3</p> <p>Porter [1] - 119:21</p> <p>POSEY [86] - 15:9, 15:12, 15:19, 16:1, 16:6, 16:11, 16:15, 16:18, 22:17, 22:19, 22:22, 24:12, 24:18, 25:22, 27:1, 27:12, 27:15, 27:18, 27:20, 28:6, 28:10, 34:14, 34:17, 34:22, 35:2, 35:5, 35:11, 35:14, 36:23, 37:4, 37:11, 40:3, 40:9, 40:15, 40:23, 41:3, 41:6, 50:4, 50:9, 50:12, 50:16, 50:21, 51:2, 51:7, 51:12, 51:20, 51:23, 52:7, 52:11, 52:20, 56:6, 57:10, 57:13, 58:1, 58:5, 59:7, 63:20, 64:7, 65:2, 67:2, 67:11, 68:12, 122:18, 127:9, 128:10, 128:15, 129:4, 129:12, 130:8, 132:3, 132:7, 132:13, 132:17, 132:23, 133:6, 139:10, 139:17, 140:15, 140:20, 141:1, 141:9, 141:13, 141:19, 141:23, 142:11, 142:14</p> <p>Posey [3] - 2:7, 3:13, 6:14</p> <p>position [4] - 38:5, 38:12, 42:11, 42:13</p> <p>positive [1] - 88:8</p> <p>possible [3] - 26:2, 41:18, 100:1</p> <p>post [2] - 47:11, 47:16</p> <p>post-hearing [2] - 47:11, 47:16</p> <p>posted [1] - 36:14</p> <p>power [1] - 82:11</p> <p>powers [1] - 109:9</p> <p>pray [1] - 129:17</p> <p>predominancy [1] -</p>	<p>76:23</p> <p>preference [1] - 74:21</p> <p>pregnant [1] - 31:22</p> <p>prehearing [1] - 121:19</p> <p>prejudice [5] - 87:19, 107:1, 115:5, 116:3, 117:1</p> <p>prejudiced [2] - 127:1, 142:5</p> <p>prejudicially [1] - 48:12</p> <p>PRESENT [2] - 2:10, 2:14</p> <p>present [5] - 22:22, 25:12, 74:6, 88:19, 88:21</p> <p>preserve [1] - 69:2</p> <p>presume [1] - 31:6</p> <p>pretty [2] - 23:14, 118:22</p> <p>prevent [1] - 78:5</p> <p>previous [2] - 3:10, 5:4</p> <p>previously [3] - 36:22, 38:8, 120:15</p> <p>primary [1] - 85:23</p> <p>probable [14] - 6:13, 7:13, 8:13, 8:19, 8:20, 11:5, 12:17, 15:2, 15:15, 17:2, 17:23, 19:2, 19:22, 20:22</p> <p>problem [2] - 26:23, 132:9</p> <p>problems [3] - 112:4, 113:3, 127:18</p> <p>procedural [2] - 45:2, 113:2</p> <p>procedurally [2] - 66:8, 66:22</p> <p>procedure [13] - 10:4, 71:3, 74:13, 93:10, 94:22, 95:3, 98:4, 103:14, 103:23, 104:3, 105:11, 113:18, 113:20</p> <p>proceeding [1] - 73:6</p> <p>PROCEEDINGS [1] - 1:9</p> <p>proceedings [8] - 30:19, 32:16, 57:23, 72:17, 82:8, 118:9, 142:21, 143:6</p> <p>process [20] - 10:4, 12:9, 12:15, 15:2, 31:16, 33:10, 34:9, 36:4, 37:14, 55:18, 55:20, 70:18, 80:2, 80:22, 105:3, 105:5,</p>	<p>114:14, 120:2, 120:11, 122:6</p> <p>processed [1] - 94:11</p> <p>processes [1] - 107:14</p> <p>professionals [1] - 27:17</p> <p>proof [17] - 53:22, 55:15, 63:12, 63:14, 64:18, 67:6, 67:10, 69:1, 69:19, 70:1, 70:9, 70:12, 70:13, 71:13, 71:23, 88:8, 130:16</p> <p>proper [1] - 81:9</p> <p>properly [5] - 12:3, 92:3, 95:8, 99:9, 138:23</p> <p>propose [1] - 56:10</p> <p>prove [5] - 78:4, 78:23, 89:5, 114:3</p> <p>proves [5] - 78:18, 79:2, 79:8, 85:8, 88:3</p> <p>provide [9] - 11:14, 11:15, 12:20, 33:17, 68:2, 70:9, 86:23, 88:13, 135:10</p> <p>provided [25] - 10:8, 10:20, 11:2, 11:3, 11:10, 11:12, 11:13, 12:18, 12:19, 28:21, 33:9, 33:21, 33:22, 36:3, 36:8, 55:23, 80:1, 83:17, 83:21, 89:17, 111:2, 111:20, 114:6, 136:7</p> <p>provides [2] - 32:7, 90:2</p> <p>providing [2] - 10:4, 38:3</p> <p>proving [2] - 79:12, 92:9</p> <p>psycho [1] - 109:9</p> <p>public [18] - 3:4, 4:7, 9:15, 21:19, 23:5, 74:11, 95:4, 99:1, 107:16, 113:14, 114:9, 114:10, 114:11, 118:3, 118:11, 122:17, 142:17</p> <p>PUBLIC [1] - 1:5</p> <p>Public [3] - 1:13, 143:3, 143:12</p> <p>purposes [2] - 63:9, 69:2</p> <p>pursuant [4] - 37:21, 70:14, 76:8, 80:12</p> <p>pursue [2] - 86:22,</p>
--	--	--	---	--

<p>94:13 pursuit [1] - 103:22 push [1] - 42:23 pushed [1] - 98:23 pushing [4] - 124:22, 125:1 put [14] - 11:19, 27:6, 44:17, 44:19, 61:6, 66:6, 66:16, 72:2, 72:9, 111:12, 119:12, 124:1, 124:2, 129:6</p>	<p>15:10, 16:21, 17:3, 17:6, 17:8, 17:13, 17:15, 17:17, 17:19, 18:1, 18:4, 18:6, 18:10, 18:12, 18:14, 18:16, 18:21, 19:4, 19:7, 19:9, 19:13, 19:15, 19:17, 19:19, 20:2, 20:4, 20:8, 20:10, 20:13, 20:15, 20:17, 21:2, 21:4, 21:8, 21:10, 21:12, 21:14, 22:5, 22:10, 22:13, 22:18, 22:21, 24:10, 24:17, 25:21, 26:19, 27:2, 27:23, 28:11, 28:23, 29:7, 29:9, 29:13, 29:15, 29:17, 29:19, 30:4, 30:8, 30:12, 30:17, 30:20, 31:4, 31:15, 31:21, 32:2, 32:5, 32:15, 32:20, 32:22, 33:3, 33:8, 33:15, 33:21, 34:8, 34:12, 34:19, 36:2, 36:7, 36:11, 36:14, 37:3, 37:10, 37:12, 38:13, 39:1, 39:9, 39:14, 39:19, 39:22, 41:8, 41:11, 42:17, 42:21, 43:7, 43:9, 43:12, 43:14, 45:5, 46:19, 49:4, 49:6, 49:12, 49:15, 49:22, 53:4, 53:9, 54:4, 54:8, 54:18, 55:3, 55:9, 55:17, 56:2, 56:13, 56:16, 56:19, 57:3, 57:18, 58:12, 58:17, 59:3, 59:8, 59:12, 59:16, 59:20, 59:23, 60:8, 60:13, 60:18, 60:22, 61:2, 61:5, 61:9, 61:12, 61:16, 61:19, 61:22, 62:2, 62:5, 62:7, 62:9, 62:14, 62:16, 62:18, 62:20, 62:23, 63:6, 63:15, 63:21, 64:1, 64:4, 64:22, 65:9, 65:13, 65:20, 65:23, 66:19, 67:16, 67:22, 68:4, 68:10, 68:13, 68:15, 68:21, 69:12, 69:16, 70:4, 70:13, 70:22, 71:9, 71:12, 71:16, 72:5, 72:11, 72:18, 73:4, 73:12, 73:15, 73:22, 74:3, 74:19, 74:23, 75:16,</p>	<p>75:20, 76:3, 76:6, 79:16, 79:19, 79:23, 80:21, 84:23, 85:3, 86:11, 86:14, 86:17, 86:19, 86:23, 87:3, 87:7, 87:10, 88:9, 88:12, 88:18, 88:22, 89:7, 89:10, 89:15, 90:2, 90:10, 90:16, 90:20, 91:3, 91:5, 91:8, 93:22, 94:3, 104:10, 104:13, 109:14, 109:17, 109:20, 109:22, 114:22, 115:2, 115:12, 115:16, 115:18, 115:23, 116:13, 116:20, 116:22, 117:6, 117:12, 117:14, 117:16, 117:20, 118:2, 118:7, 118:10, 118:16, 118:20, 119:16, 119:23, 120:13, 120:18, 120:20, 121:1, 121:3, 121:5, 121:11, 122:5, 122:8, 122:12, 122:16, 123:1, 130:15, 130:20, 133:3, 133:10, 133:12, 133:18, 133:22, 137:17, 137:19, 137:22, 138:6, 141:18, 141:22, 142:7, 142:16, 142:19 Ramos [7] - 1:11, 2:3, 37:17, 75:2, 119:7, 120:5, 121:14 rather [2] - 44:15, 130:13 rational [2] - 99:10, 114:16 re [5] - 14:19, 26:4, 26:5, 51:8, 51:9 re-employ [1] - 26:5 re-employed [1] - 26:4 re-explain [2] - 51:8, 51:9 re-reviewed [1] - 14:19 reactivating [1] - 114:13 read [11] - 29:23, 31:4, 71:9, 75:14, 77:14, 77:17, 85:20, 99:19, 115:21, 130:9, 130:21</p>	<p>reading [1] - 50:18 ready [2] - 134:6, 134:7 real [2] - 78:11, 140:10 really [11] - 23:13, 23:20, 24:5, 24:13, 25:3, 26:7, 50:5, 55:20, 88:2, 129:15 reason [5] - 83:23, 107:19, 112:16, 113:11, 114:2 reasonably [6] - 98:8, 98:18, 102:4, 102:7, 102:13, 105:13 reasons [7] - 43:5, 84:15, 85:7, 85:11, 85:19, 86:9, 91:23 reasons...you [1] - 100:1 rebuttal [3] - 74:16, 104:14, 109:23 receive [9] - 30:8, 38:2, 73:6, 76:11, 82:8, 83:1, 93:7, 95:11, 101:2 received [10] - 23:8, 23:16, 23:19, 24:9, 48:7, 50:7, 50:13, 93:6, 100:19, 111:21 recently [1] - 25:12 recess [1] - 73:23 Recess [1] - 74:2 recommend [4] - 6:12, 19:21, 20:21, 22:6 recommendation [5] - 18:23, 36:20, 39:23, 68:18, 73:9 reconsider [1] - 69:23 record [54] - 8:22, 26:12, 28:18, 29:23, 30:23, 40:5, 45:11, 46:7, 47:12, 48:20, 52:8, 52:12, 52:16, 52:18, 52:22, 63:3, 64:19, 66:3, 66:6, 66:11, 66:17, 68:9, 68:19, 68:22, 69:16, 72:3, 72:10, 72:23, 73:3, 73:21, 75:8, 75:15, 77:14, 77:17, 79:15, 82:1, 90:14, 91:8, 92:23, 97:6, 104:20, 106:9, 106:18, 109:11, 110:6, 110:9, 110:10, 110:16, 113:13, 115:20, 118:12, 118:14, 118:17, 123:2 record's [3] - 67:9,</p>	<p>71:21, 72:1 recorder [1] - 124:18 recording [2] - 123:7, 135:4 recordings [2] - 130:6, 130:7 records [2] - 10:22, 76:23 recuse [2] - 32:18, 119:6 redo [2] - 51:15, 67:3 redress [1] - 107:12 reference [2] - 78:7, 78:8 referring [1] - 77:12 refuse [2] - 63:13, 70:16 refused [1] - 107:23 regard [4] - 37:20, 41:15, 42:5, 108:18 regarding [8] - 46:13, 54:13, 60:15, 75:6, 75:9, 75:12, 81:16, 87:9 regardless [1] - 134:19 regards [3] - 27:21, 35:17, 88:23 regional [1] - 119:21 regulation [3] - 38:7, 46:10, 72:22 regulations [2] - 72:12, 108:5 reinstate [2] - 94:14, 96:21 reinstated [1] - 99:2 reinstatement [1] - 114:18 reiterate [1] - 63:16 related [2] - 27:22, 88:7 relates [1] - 100:3 Relations [1] - 105:19 relative [1] - 31:12 release [1] - 106:14 relevant [6] - 45:6, 50:2, 54:19, 84:4, 85:22, 89:17 relied [1] - 101:12 relief [1] - 25:10 relinquished [1] - 96:8 relying [2] - 94:15, 97:11 remain [1] - 108:15 remand [12] - 34:1, 34:11, 34:12, 36:15, 36:20, 36:23, 39:11, 39:23, 42:9, 49:23, 115:9 remedies [1] - 107:6</p>
Q				
<p>questions [21] - 27:20, 28:2, 31:10, 31:12, 36:19, 37:10, 37:13, 37:15, 39:15, 39:20, 40:6, 57:21, 61:23, 62:3, 74:16, 104:11, 109:15, 114:23, 116:11, 126:15, 140:2 quick [4] - 30:13, 44:6, 44:11, 118:22 quickly [1] - 67:19 quite [1] - 95:10 quorum [3] - 3:7, 32:23, 74:5 quote [2] - 96:14, 99:10</p>				
R				
<p>race [16] - 24:1, 24:2, 24:5, 24:8, 85:9, 88:6, 88:7, 91:15, 92:5, 92:7, 92:10, 99:15, 101:14, 104:6, 106:22, 114:4 racial [3] - 105:4, 105:22, 136:14 racially [1] - 130:16 raise [2] - 31:5, 122:21 raised [3] - 31:7, 37:13, 39:10 RAMOS [313] - 3:3, 4:16, 5:2, 5:7, 5:9, 5:13, 5:17, 5:19, 5:21, 5:23, 6:15, 6:18, 6:20, 7:1, 7:3, 7:5, 7:7, 7:14, 7:17, 7:19, 7:23, 8:2, 8:4, 8:6, 8:10, 8:16, 8:23, 9:5, 9:23, 10:3, 10:17, 11:6, 11:13, 12:4, 12:8, 12:14, 13:11, 13:16, 14:14, 14:17, 14:22, 15:6,</p>				

remedy [1] - 107:9
 reminder [1] - 115:3
 render [1] - 85:21
 renunciation [3] -
 39:16, 56:22, 63:1
 reopen [22] - 12:22,
 35:6, 35:7, 35:11,
 35:21, 38:2, 40:5,
 40:6, 43:1, 50:1,
 52:12, 52:19, 66:11,
 67:14, 68:1, 72:2,
 72:23, 73:3, 73:6,
 82:7, 116:7, 141:2
 reopened [2] - 12:10,
 12:16
 reopening [1] - 72:16
 reopens [2] - 52:22,
 73:8
 rep [1] - 112:19
 repeat [5] - 45:19,
 57:17, 59:19, 60:4,
 60:20
 repeatedly [1] -
 114:16
 report [10] - 3:12, 6:5,
 14:4, 22:15, 22:23,
 23:3, 23:4, 25:4,
 27:21
 reported [2] - 3:16,
 96:6
 Reporter [1] - 143:3
 REPORTING [1] - 1:21
 represent [1] - 43:16
 representation [1] -
 43:10
 represents [1] - 95:17
 request [8] - 12:15,
 14:18, 30:11, 53:8,
 70:8, 73:10, 115:6,
 141:6
 requested [5] - 28:17,
 29:4, 76:13, 132:18,
 141:5
 requesting [3] - 76:1,
 76:8, 77:1
 requests [1] - 53:1
 require [1] - 101:18
 requirement [1] -
 80:17
 requires [1] - 4:8
 reread [2] - 57:9,
 57:12
 residing [1] - 143:3
 resolution [1] - 49:2
 resources [1] - 121:18
 respect [6] - 102:2,
 110:8, 110:11,
 110:12, 113:4, 113:6
 respectfully [1] - 53:8
 respond [2] - 66:12,

66:23
 Respondent [10] -
 12:20, 35:20, 43:16,
 45:9, 46:6, 46:23,
 47:4, 65:4, 65:16,
 91:10
 respondent [1] - 38:7
 Respondent's [1] -
 8:20
 response [10] - 5:16,
 74:18, 74:22, 82:23,
 87:3, 104:12, 115:1,
 115:11, 115:15,
 142:18
 responsibility [1] -
 119:11
 rest [1] - 54:15
 restrictions [3] -
 95:23, 96:21, 107:22
 resubmitted [1] - 50:2
 results [2] - 109:3,
 109:5
 resume [1] - 74:3
 return [8] - 87:21,
 97:9, 97:11, 106:21,
 108:12, 110:18,
 111:4, 112:6
 returned [6] - 94:9,
 95:23, 97:2, 106:10,
 111:4, 112:10
 returns [1] - 117:20
 Reveal [5] - 75:12,
 79:3, 105:8, 106:15,
 110:1
 reveal [6] - 11:6, 75:5,
 75:6, 75:7, 77:13,
 110:4
 revealing [1] - 79:11
 reverse [13] - 34:1,
 34:10, 35:2, 35:18,
 35:20, 36:17, 56:3,
 67:17, 68:1, 68:5,
 115:9, 116:5, 116:6
 reversed [1] - 90:4
 reversible [2] - 63:13,
 70:15
 review [19] - 3:22, 9:5,
 12:5, 12:10, 13:19,
 20:20, 22:14, 28:12,
 44:6, 44:12, 72:20,
 90:6, 95:5, 99:1,
 103:18, 113:15,
 114:9, 114:10
 Review [2] - 107:16,
 114:12
 reviewed [2] - 10:9,
 14:19
 revoke [1] - 66:12
 rich [3] - 79:1, 79:6,
 79:9

Rick [1] - 21:21
 Ricks [1] - 103:13
 righteousness [1] -
 130:4
 RIGHTS [2] - 1:2, 2:6
 rights [2] - 113:8,
 141:4
 Rights [3] - 1:11, 3:4,
 28:5
 rise [1] - 23:15
 Rob [1] - 2:15
 rob [1] - 91:9
 role [3] - 90:7, 122:9
 room [5] - 6:14, 32:19,
 121:18, 124:5,
 136:21
 Room [2] - 1:15, 2:8
 round [1] - 133:17
 RPR/CP [1] - 1:21
 rude [3] - 125:13,
 126:10, 129:18
 rule [5] - 53:17, 63:10,
 71:7, 71:10, 71:20
 rules [5] - 71:2, 71:18,
 72:12, 107:10, 108:4
 Rules [1] - 71:19
 ruling [3] - 55:12,
 55:13, 63:4
 run [1] - 126:21
 rung [2] - 95:3, 114:10
 running [2] - 3:14,
 103:19
 Ryker [5] - 2:11, 3:8,
 4:17, 28:13, 92:8
 RYKER [2] - 3:9,
 4:19, 28:14, 30:6,
 30:10, 30:15, 32:12,
 32:17, 118:13,
 118:18, 118:21,
 119:3, 119:18,
 120:4, 120:12,
 121:6, 121:13,
 121:23, 122:2,
 122:11, 122:14

S

sake [1] - 43:19
 salon [2] - 28:16, 29:1
 sat [1] - 106:1
 Schneider [2] - 18:17,
 18:22
 school [1] - 129:2
 scientific [1] - 48:9
 scratch [1] - 90:23
 second [3] - 5:7, 5:8,
 6:18, 6:19, 7:17,
 7:18, 13:4, 17:7,
 17:8, 18:4, 18:5,
 19:7, 19:8, 20:2,

20:3, 21:2, 21:3,
 29:7, 29:8, 30:18,
 55:22, 59:11, 59:14,
 59:20, 94:5, 116:3,
 117:3, 117:4, 117:5,
 119:3, 119:19,
 120:18, 120:19
 seconded [3] - 60:10,
 62:10, 117:6
 secondly [2] - 107:18,
 108:22
 seconds [3] - 28:15,
 29:1, 114:9
 secure [1] - 25:7
 secured [1] - 25:23
 securing [1] - 25:20
 security [4] - 123:21,
 123:22, 126:14,
 133:13
 see [80] - 23:12, 23:13,
 23:15, 23:20, 24:2,
 24:15, 24:19, 26:8,
 28:9, 42:19, 57:14,
 71:14, 84:11,
 108:22, 109:5,
 109:12, 111:11,
 126:9, 127:4,
 129:16, 132:1,
 132:15, 134:3,
 134:4, 134:5,
 134:12, 134:14,
 135:11, 136:16,
 137:7
 seeing [4] - 9:7, 11:23,
 50:18, 136:13
 Senate [2] - 1:15, 2:8
 send [6] - 22:8, 22:11,
 108:12, 108:21,
 125:4, 132:1
 sends [1] - 111:1
 Senior [1] - 22:1
 seniority [1] - 96:8
 sense [1] - 9:4
 sent [18] - 16:1, 77:6,
 77:13, 79:4, 87:20,
 101:6, 101:23,
 106:10, 106:17,
 108:23, 110:14,
 110:19, 110:20,
 124:19, 126:5,
 129:7, 130:7, 131:19
 sentence [1] - 31:20
 sentences [1] - 64:23
 September [7] - 22:23,
 23:8, 23:10, 23:11,
 23:21, 23:23, 26:10
 serve [4] - 120:5,
 120:8, 121:15,
 124:16
 serves [1] - 131:1

service [4] - 21:19,
 28:5, 131:21, 135:4
 serving [2] - 124:12,
 124:14
 session [1] - 20:20
 set [4] - 13:8, 30:16,
 74:1, 125:15
 setting [1] - 121:18
 settle [1] - 105:12
 settlement [1] - 25:19
 seven [6] - 3:15, 6:8,
 23:19, 23:21, 98:20,
 102:4
 seven-member [1] -
 102:4
 seventh [1] - 103:20
 shake [1] - 16:23
 shall [1] - 107:6
 share [2] - 25:1, 25:2
 sharing [1] - 14:12
 Shelby [2] - 1:14,
 143:4
 Shelbyville [1] - 143:4
 shift [1] - 106:21
 Shook [4] - 49:11,
 62:8, 68:12, 109:16
 shoot [1] - 16:19
 shop [5] - 79:1, 92:6,
 97:13, 98:12, 106:5
 shot [3] - 125:8,
 140:14
 show [2] - 110:3,
 136:14
 showing [2] - 79:12,
 87:16
 shows [3] - 61:6,
 78:18, 109:7
 sic [5] - 39:17, 56:22,
 67:23, 83:7, 100:21
 sick [1] - 95:20
 side [2] - 66:15, 67:1
 sides [1] - 14:1
 signifies [1] - 23:10
 signify [1] - 5:9, 7:20,
 17:9, 18:7, 19:10,
 20:5, 21:5, 29:10,
 62:11, 117:8, 120:21
 similar [1] - 100:10
 similarly [7] - 77:4,
 87:22, 100:18,
 103:20, 106:7,
 107:3, 112:13
 Simmons [4] - 127:9,
 127:10, 128:22,
 139:14
 simply [1] - 43:20
 single [1] - 99:22
 sit [2] - 11:21, 99:21
 sitting [3] - 123:9,
 123:19, 123:20

<p>situated [6] - 77:4, 87:22, 100:18, 106:7, 107:3, 112:13</p> <p>situation [2] - 12:17, 110:7</p> <p>situations [1] - 138:2</p> <p>six [5] - 24:4, 90:12, 92:17, 102:21, 103:7</p> <p>six-month [1] - 102:21</p> <p>skills [3] - 47:8, 48:18, 48:21</p> <p>skip [1] - 23:1</p> <p>Slash [6] - 2:3, 5:21, 18:14, 62:7, 74:7, 121:3</p> <p>SLASH [74] - 5:6, 5:22, 6:17, 6:23, 7:10, 8:5, 9:12, 9:15, 10:18, 11:1, 14:3, 14:8, 14:11, 17:7, 17:14, 18:3, 18:15, 19:8, 19:12, 20:1, 20:14, 21:1, 21:11, 27:4, 27:16, 27:19, 29:6, 29:18, 30:2, 30:5, 33:2, 34:11, 36:13, 49:11, 56:10, 57:1, 57:5, 57:7, 57:11, 57:19, 58:16, 58:23, 62:8, 62:19, 63:2, 68:8, 68:19, 73:1, 73:11, 81:6, 81:15, 81:18, 81:21, 82:18, 83:4, 83:8, 85:13, 109:16, 109:19, 115:13, 115:21, 116:10, 116:15, 116:21, 117:15, 117:23, 118:6, 118:15, 119:2, 119:15, 120:17, 121:4, 122:7, 134:22</p> <p>slash [15] - 6:22, 7:9, 8:4, 10:17, 17:9, 17:13, 19:11, 20:13, 21:10, 21:22, 29:17, 62:18, 89:16, 117:14, 120:7</p> <p>slower [1] - 42:1</p> <p>Smith [2] - 125:19, 125:20</p> <p>Soignier [1] - 103:21</p> <p>solely [1] - 38:11</p> <p>someone [1] - 25:23</p> <p>somewhere [1] - 26:4</p> <p>son [1] - 112:3</p> <p>soon [2] - 71:6, 139:8</p> <p>sorry [48] - 14:16, 20:11, 28:1, 28:16,</p>	<p>30:11, 33:11, 34:3, 34:16, 35:9, 36:5, 38:17, 40:7, 40:13, 40:21, 41:11, 41:17, 42:12, 44:7, 45:14, 45:15, 45:16, 46:21, 47:1, 47:13, 51:18, 52:14, 52:15, 53:5, 53:10, 54:1, 54:22, 56:16, 56:17, 57:16, 59:8, 59:18, 60:1, 60:19, 63:14, 65:11, 66:20, 67:20, 69:3, 94:1, 106:8, 107:17, 109:20, 129:19</p> <p>sort [1] - 105:13</p> <p>sound [2] - 4:17, 32:7</p> <p>sounds [2] - 32:9, 119:1</p> <p>speaker [1] - 5:1</p> <p>speaking [1] - 131:3</p> <p>speaks [1] - 46:15</p> <p>specific [10] - 37:1, 37:9, 37:14, 39:12, 40:6, 52:20, 52:21, 52:23, 121:9, 131:10</p> <p>specifically [4] - 8:18, 38:4, 114:9, 131:11</p> <p>specified [1] - 138:20</p> <p>speed [2] - 27:9, 28:8</p> <p>spent [1] - 126:8</p> <p>sprains [1] - 124:17</p> <p>STAFF [1] - 2:10</p> <p>stage [1] - 105:17</p> <p>stand [1] - 129:20</p> <p>standing [1] - 126:9</p> <p>standpoint [2] - 39:11, 89:11</p> <p>Starbucks [2] - 42:17, 42:18</p> <p>start [4] - 38:15, 38:21, 38:23, 103:15</p> <p>started [3] - 23:10, 93:22, 119:14</p> <p>STATE [1] - 1:1</p> <p>state [12] - 24:20, 24:23, 26:12, 67:9, 70:15, 82:4, 84:10, 84:12, 84:13, 88:11, 119:17, 140:21</p> <p>State [3] - 1:13, 4:8, 143:13</p> <p>statement [3] - 31:5, 44:23, 72:9</p> <p>states [6] - 37:22, 70:15, 73:4, 105:19, 107:5, 108:8</p> <p>statute [8] - 82:11, 82:14, 83:13, 84:5, 102:21, 103:19,</p>	<p>104:3, 119:8</p> <p>statutes [1] - 80:12</p> <p>statutory [1] - 104:3</p> <p>stayed [1] - 106:16</p> <p>stead [1] - 120:9</p> <p>Steak [1] - 16:23</p> <p>step [5] - 105:9, 105:10, 120:2, 120:3, 122:10</p> <p>Step [1] - 105:10</p> <p>Stephens [1] - 2:11</p> <p>STEPHENS [21] - 3:9, 4:19, 28:14, 30:6, 30:10, 30:15, 32:12, 32:17, 118:13, 118:18, 118:21, 119:3, 119:18, 120:4, 120:12, 121:6, 121:13, 121:23, 122:2, 122:11, 122:14</p> <p>steps [1] - 12:15</p> <p>Steven [2] - 1:11, 2:3</p> <p>still [17] - 74:5, 78:14, 78:15, 83:11, 93:23, 94:10, 97:3, 109:18, 110:22, 115:14, 116:13, 118:13, 118:16, 127:15, 127:18, 127:21, 134:16</p> <p>stipulated [5] - 91:12, 96:13, 97:6, 99:13, 106:9</p> <p>stop [2] - 33:10, 114:21</p> <p>store [1] - 6:11</p> <p>stormed [1] - 126:12</p> <p>storms [2] - 123:18, 124:4</p> <p>straight [3] - 127:12, 128:23, 139:13</p> <p>strategies [1] - 24:21</p> <p>stress [1] - 87:15</p> <p>stripped [1] - 107:21</p> <p>structure [1] - 80:2</p> <p>studies [2] - 48:8, 48:9</p> <p>stuff [1] - 66:16</p> <p>subject [2] - 44:14, 77:15</p> <p>subjects [1] - 79:1</p> <p>submission [4] - 47:11, 80:11, 82:12, 86:7</p> <p>submit [10] - 63:22, 65:15, 66:4, 67:7, 80:17, 81:7, 81:13, 84:7, 89:22, 89:23</p> <p>submitted [16] -</p>	<p>20:19, 36:21, 46:23, 47:5, 73:18, 76:20, 76:22, 77:20, 80:14, 80:23, 82:19, 83:2, 83:4, 85:10, 85:14, 85:20, 86:10, 89:8</p> <p>submitting [1] - 86:8</p> <p>subpoenaed [2] - 75:13, 110:3</p> <p>subsection [1] - 76:9</p> <p>substance [1] - 45:1</p> <p>success [1] - 26:22</p> <p>suit [1] - 104:4</p> <p>summer [4] - 95:19, 110:15, 110:16, 110:20</p> <p>supplemental [11] - 37:19, 41:14, 42:5, 43:4, 48:7, 53:7, 53:13, 54:14, 55:13, 63:4, 64:14</p> <p>support [4] - 75:6, 99:17, 101:13, 131:8</p> <p>supported [2] - 10:5, 114:1</p> <p>supposed [7] - 101:2, 108:11, 125:9, 126:19, 140:6, 140:7</p> <p>Supreme [1] - 103:16</p> <p>surface [1] - 90:23</p> <p>Surgery [1] - 103:21</p> <p>surgery [2] - 125:22, 126:2</p> <p>surprise [1] - 44:15</p> <p>sustain [2] - 53:21, 65:4</p> <p>sustained [1] - 55:14</p> <p>swearing [1] - 31:5</p> <p>swimming [1] - 112:3</p> <p>switched [1] - 106:20</p> <p>system [1] - 4:18</p>	<p>100:4, 104:17, 106:15, 106:17, 107:18, 108:16, 108:20, 109:3, 109:4, 111:6, 111:22, 112:1, 112:2, 112:15</p> <p>termination [3] - 91:16, 97:8, 106:19</p> <p>terms [2] - 24:9, 26:7</p> <p>Terry [3] - 2:16, 74:11, 76:5</p> <p>testified [2] - 77:18, 111:19</p> <p>testify [4] - 75:7, 75:13, 77:21, 110:2</p> <p>testimony [3] - 46:22, 47:4, 50:18</p> <p>tests [1] - 4:18</p> <p>texted [1] - 79:6</p> <p>texting [2] - 79:9, 79:11</p> <p>texts [1] - 79:8</p> <p>THE [56] - 1:1, 31:1, 31:14, 31:19, 31:23, 32:4, 32:9, 33:11, 34:3, 34:16, 34:21, 35:9, 36:5, 38:17, 39:5, 40:13, 40:21, 41:1, 41:5, 41:17, 41:22, 42:3, 42:12, 42:15, 42:19, 44:7, 45:14, 45:17, 47:1, 47:13, 47:18, 47:23, 51:18, 51:21, 52:14, 53:2, 53:10, 54:22, 55:1, 55:8, 56:17, 57:16, 59:18, 59:21, 60:1, 60:4, 60:11, 60:19, 61:14, 62:22, 65:11, 65:18, 67:20, 69:3, 69:7, 69:15</p> <p>therefore [2] - 96:7, 101:9</p> <p>Thereupon [1] - 142:21</p> <p>they've [4] - 50:7, 105:15, 109:8, 140:22</p> <p>thinking [2] - 25:5, 25:6</p> <p>third [2] - 13:5, 93:5</p> <p>Thomas [1] - 134:17</p> <p>Thomp [1] - 133:5</p> <p>Thompson [6] - 127:6, 133:6, 134:16, 138:13, 139:19, 140:1</p> <p>thoughts [1] - 24:11</p> <p>Three [1] - 105:10</p>
T				
<p>table [3] - 56:14, 59:5, 67:23</p> <p>tape [12] - 8:22, 13:1, 13:3, 13:14, 13:15, 13:17, 13:18, 138:14, 138:17, 138:21, 138:22</p> <p>tapes [4] - 20:20, 20:21, 123:5, 123:6</p> <p>telephone [3] - 2:4, 2:5, 97:17</p> <p>ten [1] - 74:1</p> <p>terminable [1] - 107:19</p> <p>terminated [19] - 79:6, 93:8, 96:5, 100:2,</p>	<p>100:4, 104:17, 106:15, 106:17, 107:18, 108:16, 108:20, 109:3, 109:4, 111:6, 111:22, 112:1, 112:2, 112:15</p> <p>termination [3] - 91:16, 97:8, 106:19</p> <p>terms [2] - 24:9, 26:7</p> <p>Terry [3] - 2:16, 74:11, 76:5</p> <p>testified [2] - 77:18, 111:19</p> <p>testify [4] - 75:7, 75:13, 77:21, 110:2</p> <p>testimony [3] - 46:22, 47:4, 50:18</p> <p>tests [1] - 4:18</p> <p>texted [1] - 79:6</p> <p>texting [2] - 79:9, 79:11</p> <p>texts [1] - 79:8</p> <p>THE [56] - 1:1, 31:1, 31:14, 31:19, 31:23, 32:4, 32:9, 33:11, 34:3, 34:16, 34:21, 35:9, 36:5, 38:17, 39:5, 40:13, 40:21, 41:1, 41:5, 41:17, 41:22, 42:3, 42:12, 42:15, 42:19, 44:7, 45:14, 45:17, 47:1, 47:13, 47:18, 47:23, 51:18, 51:21, 52:14, 53:2, 53:10, 54:22, 55:1, 55:8, 56:17, 57:16, 59:18, 59:21, 60:1, 60:4, 60:11, 60:19, 61:14, 62:22, 65:11, 65:18, 67:20, 69:3, 69:7, 69:15</p> <p>therefore [2] - 96:7, 101:9</p> <p>Thereupon [1] - 142:21</p> <p>they've [4] - 50:7, 105:15, 109:8, 140:22</p> <p>thinking [2] - 25:5, 25:6</p> <p>third [2] - 13:5, 93:5</p> <p>Thomas [1] - 134:17</p> <p>Thomp [1] - 133:5</p> <p>Thompson [6] - 127:6, 133:6, 134:16, 138:13, 139:19, 140:1</p> <p>thoughts [1] - 24:11</p> <p>Three [1] - 105:10</p>			

three [10] - 3:23, 28:21, 33:9, 42:10, 77:2, 91:22, 94:12, 97:8, 99:14, 106:1
threw [1] - 94:5
throughout [3] - 26:17, 110:15, 110:16
timeliness [3] - 102:17, 107:4, 113:10
timely [2] - 80:2, 114:13
timer [1] - 75:22
timing [3] - 89:10, 89:11, 89:13
today [14] - 35:14, 35:23, 48:4, 81:12, 82:19, 82:20, 82:21, 99:21, 115:8, 116:17, 127:16, 129:18, 135:21, 141:20
today's [2] - 4:12, 81:10
together [1] - 108:6
together [3] - 27:6, 58:9, 108:6
toll [2] - 103:18, 104:4
tone [1] - 127:2
Tony [1] - 21:22
took [9] - 40:19, 40:22, 80:11, 126:13, 126:18, 135:11, 135:12, 136:1, 137:4
top [1] - 24:3
total [1] - 23:7
totally [5] - 33:13, 35:18, 45:20, 55:1, 111:23
towards [2] - 95:9, 99:12
township [1] - 140:20
training [3] - 4:11, 27:9, 118:23
trainings [1] - 4:9
transcribed [1] - 143:8
transcript [5] - 99:17, 99:21, 100:6, 100:20, 143:6
translate [25] - 31:17, 31:20, 33:5, 34:20, 34:22, 38:14, 38:18, 39:4, 39:8, 44:9, 45:18, 45:21, 45:22, 53:9, 54:19, 55:4, 58:21, 61:3, 65:9, 66:20, 67:19, 67:21, 69:4, 73:16, 74:20

translated [1] - 38:22
translation [1] - 30:22
translator [1] - 65:1
transpired [1] - 91:1
treated [1] - 134:9
treatise [1] - 71:20
trial [5] - 71:3, 71:21, 71:23, 140:16
tricked [1] - 105:15
trickery [1] - 78:5
tried [2] - 45:10, 46:7
trouble [1] - 127:15
true [1] - 143:5
truly [3] - 31:8, 137:20, 137:23
truth [13] - 9:2, 9:13, 11:22, 13:7, 86:1, 98:14, 98:15, 125:16, 125:17, 129:13, 129:17, 130:10
try [2] - 33:6, 42:1
trying [8] - 26:3, 44:19, 66:21, 87:15, 100:3, 125:13, 135:18, 137:13
turn [14] - 9:14, 124:18, 124:20, 125:7, 125:11, 125:18, 127:4, 127:23, 128:2, 129:14, 131:17, 131:19, 131:22, 131:23
turned [2] - 111:14, 125:21
turning [1] - 94:18
twenty [3] - 4:11, 89:2, 89:3
twenty-something [1] - 89:3
two [26] - 4:10, 22:5, 40:11, 40:18, 46:22, 47:4, 48:14, 51:14, 51:15, 52:3, 55:20, 58:6, 64:23, 77:2, 78:8, 78:10, 80:12, 96:2, 105:10, 105:16, 109:1, 110:2, 112:22, 116:1, 124:5, 126:23
two-part [1] - 55:20
type [3] - 109:8, 129:3, 133:13
typed [2] - 129:1, 129:5
types [1] - 23:18
typically [1] - 66:13

U

UAW [14] - 4:2, 74:12, 78:3, 79:13, 94:22, 98:3, 107:4, 107:23, 108:6, 115:4, 115:5, 116:2, 116:4, 117:1
ultimately [1] - 95:4
unable [2] - 120:5, 120:7
unanimously [1] - 102:4
under [12] - 31:7, 31:12, 72:16, 92:16, 93:4, 93:14, 94:22, 96:4, 107:9, 111:3, 111:8
underlined [1] - 71:3
undersigned [1] - 143:2
undisputed [6] - 91:12, 97:8, 97:10, 101:12, 103:7, 111:12
undo [1] - 66:10
unfortunately [3] - 23:20, 96:22, 132:17
union [28] - 4:3, 74:12, 93:9, 93:15, 93:17, 94:10, 95:6, 95:7, 96:15, 96:18, 97:4, 97:9, 99:9, 99:23, 100:10, 101:17, 102:11, 102:18, 103:11, 107:5, 107:10, 111:7, 112:19, 113:15, 115:6, 117:3
Union [5] - 96:8, 101:10, 108:17, 112:16, 112:19
union's [1] - 91:18
Union's [2] - 100:8, 114:16
unit [1] - 23:2
unless [2] - 72:2, 109:8
unlike [1] - 104:1
untimely [9] - 92:15, 92:16, 93:4, 98:16, 99:6, 102:5, 104:7, 105:23
up [35] - 10:13, 11:16, 12:23, 13:1, 13:23, 23:8, 23:9, 24:8, 27:9, 27:17, 30:16, 32:3, 32:5, 32:10, 39:6, 56:3, 67:14, 74:1, 75:11, 80:15, 94:18, 95:2, 97:22,

98:23, 110:3, 112:23, 113:8, 121:18, 122:10, 129:1, 129:3, 129:5, 129:20, 140:10, 141:2
upheld [6] - 12:17, 15:1, 69:10, 73:17, 114:16, 117:17
uphold [41] - 6:12, 7:12, 8:12, 11:3, 17:1, 17:23, 19:2, 19:21, 20:21, 34:1, 34:9, 34:10, 34:14, 34:16, 34:17, 35:15, 35:16, 36:16, 47:18, 55:19, 55:21, 56:3, 56:6, 56:7, 56:11, 56:14, 56:21, 58:18, 59:1, 59:6, 60:9, 62:10, 63:8, 67:12, 67:18, 68:5, 68:8, 68:17, 115:9, 116:5, 116:18
upholding [4] - 11:23, 68:1, 88:23, 117:8
upset [1] - 97:3
urgent [1] - 7:11

V

verify [1] - 121:9
Veronica [1] - 21:18
versus [20] - 4:2, 6:10, 7:11, 16:22, 17:22, 18:17, 18:22, 19:20, 20:18, 21:19, 21:21, 21:22, 22:1, 28:15, 29:1, 29:22, 33:4, 68:18, 70:15, 119:20
via [2] - 2:4, 2:5
Vice [1] - 120:6
vice [1] - 120:7
Vice-chair [1] - 120:6
vice-chair [1] - 120:7
Victoria [1] - 20:18
video [4] - 13:17, 133:19, 133:20
view [1] - 92:14
violation [2] - 102:23, 103:10
vocabulary [1] - 48:18
voice [2] - 122:21, 127:2
voluminous [2] - 76:15, 76:19
vote [8] - 9:9, 29:2, 29:4, 66:4, 67:8, 68:16, 70:18, 119:13
voted [1] - 66:2

W

wages [1] - 26:7
wait [2] - 54:17, 126:19
wants [2] - 44:23, 74:21
Washington [1] - 113:13
waste [1] - 139:16
watch [1] - 3:6
Wayne [1] - 95:16
ways [1] - 101:11
whereas [1] - 24:6
white [5] - 87:22, 101:2, 101:6, 106:7, 107:3
whole [5] - 26:2, 90:6, 111:10, 126:8, 130:23
William [1] - 1:21
willing [2] - 119:7, 119:12
win [3] - 26:10, 132:10, 142:5
Wineke [1] - 17:22
winning [2] - 66:15, 67:1
wireless [1] - 5:1
wish [3] - 26:22, 69:18, 72:7
wished [1] - 72:9
withdraw [5] - 91:18, 97:19, 106:4, 112:20, 114:15
withdrawal [9] - 93:2, 94:23, 98:5, 98:11, 100:16, 101:19, 103:4, 114:4, 114:6
withdrawn [9] - 87:18, 88:1, 92:22, 94:21, 98:2, 101:21, 102:8, 106:23, 112:18
withdrew [6] - 91:16, 92:4, 95:8, 97:14, 99:9, 101:22
witness [3] - 31:9, 77:15, 77:17
witnesses [1] - 138:10
woman [2] - 125:1
word [5] - 15:19, 27:8, 41:2, 45:23, 48:19
words [3] - 44:8, 45:22, 46:16
write [1] - 108:1
writing [2] - 98:1, 101:1
written [14] - 57:20, 59:9, 97:5, 100:15, 101:23, 104:16,

104:18, 104:19,
105:1, 105:6, 105:7,
105:8, 105:9
wrote [2] - 85:9,
139:12

Y

year [3] - 4:6, 24:6,
112:3
years [16] - 4:10,
24:15, 44:2, 45:7,
46:3, 94:12, 94:18,
97:9, 98:20, 106:2,
106:17, 124:5,
126:23
yesterday [1] - 127:16
yielding [1] - 90:20
yourself [2] - 76:3,
123:2
yourselves [2] -
38:20, 39:8
Yufen [2] - 2:16, 65:15

Z

Zrnchik [1] - 21:18