

1 BEFORE THE STATE OF INDIANA

2 CIVIL RIGHTS COMMISSION

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PUBLIC MEETING OF OCTOBER 24, 2014

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10 PROCEEDINGS

11 in the above-captioned matter, before the Indiana

12 Civil Rights Commission, David C. Carter,

13 Chairman, taken before me, Lindy L. Meyer, Jr., a

14 Notary Public in and for the State of Indiana,

15 County of Shelby, at the Indiana Government

16 Center South, Conference Center, Room A, 402 West

17 Washington Street, Indianapolis, Indiana, on

18 Friday, October 24, 2014 at 10:03 o'clock a.m.

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20

21 William F. Daniels, RPR/CP CM d/b/a
ACCURATE REPORTING OF INDIANA

22 12922 Brighton Avenue
Carmel, Indiana 46032

23 (317) 848-0088

1 APPEARANCES:

2 COMMISSION MEMBERS:

- 3 David C. Carter, Chairman
- Alpha Blackburn
- 4 Steven A. Ramos
- Barry Baynard
- 5 Tehiji G. Crenshaw
- Charles D. Gidney
- 6

7 INDIANA CIVIL RIGHTS COMMISSION

- By Akia Haynes, Deputy Director
- 8 Indiana Government Center North
- 100 North Senate Avenue, Room N103
- 9 Indianapolis, Indiana 46204
- On behalf of the Commission.
- 10

11 OTHER COMMISSION STAFF PRESENT:

- 12 Noell Allen
- Brad Meadows
- 13 Pamela Cook
- Debbie Rincones-Chavez
- 14

15 ORAL ARGUMENTS:

- 16 Reginald Baker vs. Roman Marblene
- Michael C. Healy, counsel for Complainant
- 17 Wayne E. Uhl, counsel for Respondent

18 OTHERS PRESENT:

- 19 Lloyd Bell
- 20

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- 23

1 10:03 o'clock a.m.
2 October 24, 2014

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4 CHAIRMAN CARTER: Okay. Our
5 Chairperson Blackburn is delayed, and so we will
6 begin and follow the agenda and hope that she
7 arrives soon.

8 So, I will call the Indiana Civil Rights
9 Commission to order for our October meeting. We
10 have a quorum, and we will follow the agenda as
11 written until Comm. Blackburn arrives, and then
12 she can take over.

13 You have a copy of the minutes. You've
14 had a chance to review them. May I have a motion
15 to accept the minutes of the last meeting?

16 COMM. RAMOS: So moved.

17 CHAIRMAN CARTER: And a second?

18 COMM. BAYNARD: I'll second.

19 CHAIRMAN CARTER: All in favor?

20 COMM. RAMOS: Aye.

21 COMM. BAYNARD: Aye.

22 COMM. CRENSHAW: Aye.

23 CHAIRMAN CARTER: Aye.

Any opposed?

1 (No response.)

2 CHAIRMAN CARTER: Thank you.

3 Ms. Cook, the Financial Report.

4 MS. COOK: Good morning.

5 CHAIRMAN CARTER: Good morning.

6 COMM. CRENSHAW: Good morning.

7 MS. COOK: You've had an opportunity

8 to review the September Financial Report. I'd

9 like to entertain any questions, if you have any.

10 COMM. RAMOS: I have none.

11 MS. COOK: Fine. None. So far,

12 we've successfully completed our first quarter

13 and are one month into our second quarter, and

14 we're right on target for this fiscal year.

15 Again, we do plan on utilizing all of our general

16 funds to cover salary and offset any operating

17 expenses via our cooperative agreements in place.

18 We also are getting ready to request the

19 second quarterly drawdown for our HUD partnership

20 funds in the amount of sixty-two five, and we're

21 also getting ready to request the new cooperative

22 agreement funding dollars for our HUD cooperative

23 agreement in the amount of 442,802, to carry us

1 through this year.

2 Any questions?

3 (No response.)

4 MS. COOK: None? Thank you.

5 CHAIRMAN CARTER: Thank you.

6 Moving on to Old Business, and Report by

7 Commissioners on Complaints -- Complainant

8 Appeals.

9 Comm. Gidney, do we have a --

10 MS. RINCONES-CHAVEZ: No. I was just

11 telling her he should be here shortly.

12 CHAIRMAN CARTER: Oh, okay.

13 MS. RINCONES-CHAVEZ: We can get back

14 to him.

15 CHAIRMAN CARTER: We can come back to

16 him, or table it for next time. And ditto

17 Garcia; do you have any --

18 MS. RINCONES-CHAVEZ: No report.

19 CHAIRMAN CARTER: And Comm. Blackburn

20 isn't here yet for hers.

21 (Comm. Gidney arrived.)

22 CHAIRMAN CARTER: There he is.

23 Good morning, Comm. Gidney.

1 COMM. GIDNEY: Good morning.

2 CHAIRMAN CARTER: All right. While
3 Comm. Gidney is getting settled, I will assign
4 the next round of Appeals. I will take Irene
5 Tillman versus Indianapolis Housing Authority;
6 and Comm. Ramos, if you would take Betty White
7 versus Macy's, Inc.

8 COMM. RAMOS: Okay.

9 CHAIRMAN CARTER: Comm. Baynard, if
10 you would review Lloyd K. Bell versus Gardenside
11 Terrace Apartments; Comm. Gidney, if you would
12 look at LaRonda Poe -- let me get this closer so
13 I can -- versus Nationwide Payroll Services
14 Group, LLC; and Comm. Crenshaw, if you would
15 review Onetha Byrd versus Indianapolis Housing
16 Agency. And so, it's back to me. I will also
17 review Mamie Jefferson versus Cloverleaf
18 Apartments Community Investment Foundation.

19 And we will return to Comm. Gidney and ask
20 if he has any -- anything to say about Marcelo &
21 Florencia Juarez Santamaria versus Longacre
22 Mobile Home Park.

23 COMM. GIDNEY: Okay. My

1 recommendation is to uphold the Deputy Director's
2 finding of no probable cause.

3 CHAIRMAN CARTER: Okay. Thank you.

4 May I have a motion to accept that
5 recommendation?

6 COMM. CRENSHAW: So moved.

7 COMM. BAYNARD: Second.

8 CHAIRMAN CARTER: All in favor?

9 COMM. RAMOS: Aye.

10 COMM. BAYNARD: Aye.

11 COMM. CRENSHAW: Aye.

12 COMM. GIDNEY: Aye.

13 CHAIRMAN CARTER: Aye.

14 Any opposed?

15 (No response.)

16 CHAIRMAN CARTER: Okay. Have I
17 covered everything? Oh, yes.

18 (Discussion off the record.)

19 CHAIRMAN CARTER: Oh, I'm sorry. The
20 case I read was Garcia's. Thank you for pointing
21 that out. And it's -- Comm. Gidney's case is
22 Abdul K. Al-Hamed versus Herman & Kittle
23 Properties doing business as Lynhurst Park

1 Apartments, and Comm. Garcia's case and
2 Comm. Blackburn's case will be postponed until
3 next month. Now we have a motion before the
4 Commission Aleesha Bullock versus Cardinal Ritter
5 High School, Inc., and that's you.

6 JUDGE ALLEN: Well, good morning,
7 everyone.

8 COMM. CRENSHAW: Good morning.

9 CHAIRMAN CARTER: Good morning.

10 JUDGE ALLEN: In your packets, you
11 will see there is a Petition for Change of Judge
12 submitted by the Respondent's counsel in the
13 matter of Aleesha Bullock as Complainant versus
14 Cardinal Ritter High School, Inc.

15 And just to remind the Commission as to
16 what this case is about or give you the history
17 of this case, back in 2012, Judge Lange conducted
18 a hearing in this matter. Prior to Judge Lange
19 retiring, a decision was not made, and so when I
20 came on in 2013 and reviewed the record, I issued
21 a decision.

22 The Respondent opposed my decision, had
23 oral arguments before this Commission, and this

1 Commission affirmed my decision, yet reduced the
2 relief in which the Complainant received. That
3 was then appealed to the Indiana Court of
4 Appeals.

5 The Indiana Court of Appeals found that --
6 a number of things, and the procedural issue is
7 the reason why it was remanded back to the
8 Commission; namely, I did not observe the witness
9 testimony to assess credibility, and that was the
10 sole -- one of the reasons why it was remanded
11 back.

12 So, I -- the matter was not appealed to
13 the Indiana Supreme Court, and so it is
14 essentially back on my docket to conduct a
15 hearing and issue a decision, and we start that
16 process over.

17 The Respondent's counsel, and you have
18 that in your information, filed a Petition for a
19 Change of Judge, and cited to Indiana
20 Code 4-21.5-3-8.5 section (2) that states, "An
21 agency may share an administrative law judge with
22 another agency to avoid bias, prejudice, interest
23 in the outcome, or another conflict of interest;

1 (2), if a party requests a change of
2 administrative law judge; (3), to cease
3 scheduling difficulties; or (4), for another good
4 cause," and the Respondent is relying on
5 subsection (2), if a party requests a change of
6 administrative law judge.

7 The Complainant's counsel in this case
8 filed an objection to the Respondent's Petition
9 for a Change of Judge, and you do not have this
10 in packets, but what I will do is briefly read a
11 section of the objection. "The Complainant
12 opposes the Commission's appointment in its
13 discretion of an administrative law judge other
14 than Judge Allen to rehear this case, whether or
15 not such appointee is shared with another state
16 agency.

17 "Complainant bases her opposition on the
18 following reasons: (a), the introduction of a
19 different judge at this point risks a greater
20 delay in the eventual adjudication of this case
21 to the issuance of new recommended and final
22 orders that can be anticipated should Judge Allen
23 remain responsible for the conduct of the new

2 "In this regard, Complainant points out to
3 the Commissioners that Judge Allen has acted
4 promptly in issuing a recommended decision on
5 Complainant's claim, just 17 days after her
6 appointment as the Commission's ALJ, and not
7 going forward with Judge Allen to retry the case
8 instead of someone else, a ruling is likely to be
9 timely, as required by the Court."

10 The Commission is asked to make a decision
11 as to: You will allow Judge Allen, myself, to
12 conduct this hearing, or appoint a different
13 judge on this case. I will note that we have a
14 prehearing conference scheduled for this Tuesday.
15 That does not mean you need to make a decision
16 today. You can take this matter under advisement
17 and come back next month and issue a decision or
18 make a ruling. If you would like to hear oral
19 arguments on this motion, you have the
20 prerogative to schedule that as well.

21 So, if you have any questions, I can
22 answer those at this time, but ultimately the
23 question before you is whether or not you will

1 allow myself to conduct the hearing or another

2 state agency ALJ, which you would have to
3 appoint.

4 CHAIRMAN CARTER: I have a question,
5 and that is: I did read that request, but I've
6 forgotten whether Cardinal Ritter gave a reason
7 for the Change of Judge, or is it just -- I know
8 they gave a reason why they want to redo it, but
9 did they give a reason why they didn't want you
10 to be the Judge?

11 JUDGE ALLEN: It states, "Upon
12 review, the Court of Appeals was critical of
13 Judge Allen's handling of the case, finding that,
14 (1), ALJ Allen entered the proposed findings --
15 entering the proposed findings --" I believe
16 that's a typo "-- the ALJ was weighing evidence
17 that she did not hear in determining the
18 credibility of witnesses that she did not see;
19 (2), the ALJ Allen erroneously determined that
20 Ritter proffered the explanation that Bullock did
21 not get along with other players as a
22 nondiscriminatory purpose for cutting Bullock;
23 and (3), acted contrary to the contrary --" I

1 believe that's another typo "-- to the
2 constitutional rights of the party, and is

3 without observance of procedures required by
4 law."

5 CHAIRMAN CARTER: Hmm.

6 JUDGE ALLEN: "As a result the
7 deficiencies of --" which I believe is another
8 typo "-- the Court of Appeals remanded the case
9 for a new trial of all of the issues."

10 CHAIRMAN CARTER: Okay. As a former
11 English teacher, the number of typos tends to
12 undermine the argument somewhat, but --

13 JUDGE ALLEN: I'm sorry; it further
14 states, "Change of judge is a matter of right
15 upon remand where remand requires a hearing and
16 receipt of evidence, and, emphasize, must involve
17 at least one issue already tried and decided by
18 the Court." So, essentially, it's just a request
19 for a different ALJ as the right a party can have
20 per the law.

21 CHAIRMAN CARTER: And we have a pool
22 that we can draw from of ALJ's --

23 JUDGE ALLEN: Well --

1 CHAIRMAN CARTER: -- should we need?

2 JUDGE ALLEN: -- as a result of this

3 particular petition, I asked around for different
4 ALJ's in state agencies who has expertise, time,
5 willingness, and I have at least two judges. I
6 will not name their names at this time, but if
7 you decide to appoint a different ALJ, I will
8 provide recommendations.

9 CHAIRMAN CARTER: Do we have any
10 opinions down the table?

11 COMM. RAMOS: I have a couple of
12 questions. If we keep it in your Court, the
13 process -- we're just stepping through this
14 process, and what happens?

15 JUDGE ALLEN: I conduct the hearing.

16 COMM. RAMOS: Yes.

17 JUDGE ALLEN: And I just want to
18 remind the Commissioners that I never heard the
19 case to begin with, so the fact that there is an
20 issue of rehearing the case, I can't rehear a
21 case I never heard to begin with, and I believe
22 that was one of the issues the Court of Appeals
23 had to begin with is that I did not observe and

15

1 assess the testimony of the witnesses.

2 So, if you find -- or deny this petition,

3 then I will conduct the hearing. I will

4 solicit -- elicit evidence, the parties will
5 testify before me, I will observe the testimony
6 and weigh the credibility of the witnesses, and
7 issue a decision accordingly.

8 COMM. RAMOS: Okay. And the other
9 alternative is another ALJ is going to do the
10 same process?

11 JUDGE ALLEN: That is correct.

12 CHAIRMAN CARTER: Any other
13 questions?

14 COMM. BAYNARD: Well, personally, I'd
15 just like to think that Judge Allen could do a
16 very nonbiased job at -- for the making decision
17 here. I know you read the transcript before you
18 made the decision. I feel pretty comfortable
19 with you staying on as the ALJ.

20 JUDGE ALLEN: Thank you.

21 CHAIRMAN CARTER: Comm. Gidney?

22 COMM. GIDNEY: Yeah, I agree as well.

23 CHAIRMAN CARTER: Okay.

1 Comm. Crenshaw?

2 COMM. CRENSHAW: I concur.

3 CHAIRMAN CARTER: Comm. Ramos?

4 COMM. RAMOS: Yes, I agree.

5 CHAIRMAN CARTER: As do I, so I think

6 we -- I would entertain a motion to reject the

7 Petition, I guess. Is that what we're about --

8 reject the -- a motion to reject the Petition for

9 Change of Judge?

10 JUDGE ALLEN: Right, the current

11 motion is a Petition for a Change of Judge, so --

12 okay.

13 COMM. GIDNEY: I second.

14 CHAIRMAN CARTER: Did I move? Okay.

15 Can the Chair move? Sure, I guess. All in

16 favor?

17 COMM. RAMOS: Aye.

18 COMM. BAYNARD: Aye.

19 COMM. CRENSHAW: Aye.

20 COMM. GIDNEY: Aye.

21 CHAIRMAN CARTER: Aye.

22 Any opposed?

23 (No response.)

17

1 CHAIRMAN CARTER: Okay. There.

2 JUDGE ALLEN: What I will do then is

3 I will prepare an order accordingly for your

4 signatures.

5 CHAIRMAN CARTER: Okay. And next we
6 have Findings of Fact, Conclusions of Law and
7 Order. The case of Gilbert Anguiano versus City
8 of Fort Wayne, and may I have a motion to accept
9 those Findings, et cetera?

10 COMM. RAMOS: So moved.

11 CHAIRMAN CARTER: And a second?

12 COMM. GIDNEY: Second.

13 CHAIRMAN CARTER: All in favor?

14 COMM. RAMOS: Aye.

15 COMM. BLACKBURN: Aye.

16 COMM. BAYNARD: Aye.

17 COMM. CRENSHAW: Aye.

18 COMM. GIDNEY: Aye.

19 CHAIRMAN CARTER: Aye.

20 Any opposed?

21 (No response.)

22 CHAIRMAN CARTER: Which brings us to

23 the Oral Arguments.

18

1 JUDGE ALLEN: Thank you.

2 CHAIRMAN CARTER: Thank you.

3 So, if the parties will identify

4 themselves.

5 MR. UHL: I am Wayne Uhl. I'm
6 attorney for the Respondent in this case, Roman
7 Marblene Company.

8 MR. HEALY: I am Michael Healy, Civil
9 Rights Commission staff counsel in the public
10 interest, on behalf of Complainant, Reginald
11 Baker.

12 CHAIRMAN CARTER: All right. If we
13 can agree on -- I guess it's 20 minutes each in
14 order to make your initial statement, and you can
15 rebut each other for five minutes after that.

16 MR. UHL: Until you get tired of us.

17 CHAIRMAN CARTER: Well --

18 MR. UHL: I don't think we'll need
19 that much time, Commissioner.

20 CHAIRMAN CARTER: Okay.

21 MR. UHL: Thank you. I appreciate
22 it. And if you'll kind of give me a hand wave if
23 I do go over and I'm coming up to the end of the

19

1 time, I'd appreciate it. Thank you.

2 I am Wayne Uhl. I'll here for the
3 responding party, Roman Marblene. We were last
4 here in April to argue objections. Just to give
5 you some background -- well, first of all, the

6 reason we're here today is that my client, Roman
7 Marblene, has filed a motion for you to vacate
8 and reconsider an order that you issued on
9 May 30th of 2014. So, that's what we're here for
10 today, but I'd like to give you some background.

11 This is a race discrimination in
12 employment case. Mr. Baker is contending that he
13 worked for Roman Marblene. He was injured off
14 work. There was a dispute between Mr. Baker and
15 Roman Marblene as to whether or not he was
16 capable of returning to work, given the fact that
17 he had a ten-pound lifting restriction, and then
18 later in fact needed surgery on the hand in
19 question, and was recovering from that surgery.
20 There was a ten-month period of time when
21 Mr. Baker was not permitted to come back to work
22 because he didn't have the all-clear from his
23 doctor, which the employer was requiring.

20

1 The employer's position was, my client's
2 position was, that we did not want to have
3 Mr. Baker back in the workplace until he was
4 fully able to do his job. Mr. Baker contends
5 that there were white employees who were given

6 more favorable treatment, that these white
7 employees were allowed to come back to work even
8 though they were somehow limited in their job.

9 And we argued that as part of this
10 ten-month medical leave situation. We presented
11 arguments on that to you in April. Prior to
12 that, your ALJ, Judge Allen, had found -- had
13 recommended summary judgment; that is, that the
14 case be dismissed and judgment be entered in
15 Roman Marblene's favor. That was the first part
16 of the case was this ten-month period of time
17 when Mr. Baker was unable to return to work.

18 The second part of the case was the
19 termination of his employment, and this arose
20 from an incident in October of 2010, when
21 Mr. Baker was in the workplace, he was arguing
22 with the owner of the company, Jim Triantos,
23 about whether he could come back to work, and

21

1 during the course of that argument, he said, and
2 I quote --

3 MR. HEALY: Your Honor, I'm going to
4 object at this time. Mr. Uhl is trying to insert
5 oral argument on the merits of the claim of the
6 summary judgment motion. We have already had

7 oral argument on that. We are here for the
8 specific purpose of determining whether or not
9 this should be remanded because of any violations
10 of the Public Access Act, specifically the issue
11 of whether there was -- or should have been an
12 executive session, and whether it should be
13 remanded for that reason. This is not the time,
14 and it's inappropriate, for him to insert his
15 argument once again on the merits.

16 CHAIRMAN CARTER: I tend to agree.
17 I -- I do remember the case, and I remember the
18 issues of the case, and I would appreciate
19 hearing an argument about what we are supposed to
20 do with this lapse, as Mr. Healy put it in his
21 pleadings, that -- whether there was a lapse of
22 hosting an executive session.

23 MR. UHL: Sure, sure. I'm sorry. I

22

1 was almost done, but I was just giving you sort
2 of a brief reminder of what the case was about.
3 I understand why Mr. Healy doesn't want me to
4 talk about --

5 CHAIRMAN CARTER: Sure.

6 MR. UHL: -- what his client said

7 during that meeting. I think you all know what
8 it was.

9 CHAIRMAN CARTER: Yes.

10 MR. UHL: So, I was just giving you a
11 preview of what we'll be talking about in a
12 minute.

13 So, here's what happened procedurally. In
14 February, Judge Allen reviewed the whole case,
15 determined as a matter of law that my client had
16 not discriminated on the basis of race, that
17 there were no disputes of material fact, and that
18 we were entitled to judgment, and she made that
19 recommendation to you.

20 Mr. Baker, through his counsel, Mr. Healy,
21 objected to that, filed objections. We fully
22 briefed them. We came here in April of this
23 year, at your April meeting, to argue that, and

23

1 we had a full argument and the Commission took it
2 under advisement, and had the transcript of the
3 argument, and I believe we even said that
4 Commissioners who were not present for the
5 argument could review that transcript.

6 If I remember, Comm. Crenshaw, you came in
7 maybe halfway through the argument, and we said

8 that was fine, that Commissioners could consider

9 the record and make a decision.

10 At the May -- and that -- so, we were
11 looking forward to the decision, but what we were
12 looking forward to also was if the decision was
13 against us, that we would know what the reasons
14 were for the Commission's decision, and we
15 believe that under the Open Door Law that there
16 would be an open deliberation of the matter by
17 the Commission, a discussion between the
18 Commissioners as to why you were voting one way
19 or the other, and what the reasons would be.

20 Instead, what we received was basically a
21 one-page order that simply said the Commission
22 remands this case back to the Administrative Law
23 Judge, and we felt that we were deprived an

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1 explanation of why the Commission did that. We
2 didn't understand why it was that the Commission
3 was -- had rejected Judge Allen's recommendation,
4 her findings, several pages of findings that she
5 made.

6 So, we looked into how we could find out
7 what happened here, why it is that we didn't know

8 how the Commission had ruled. And part of the
9 background here is that it was an our belief that
10 under the Open Door Law, the Commission is
11 required to deliberate -- and that's one of the
12 words that's use in the Open Door Law, the
13 Commission is required to deliberate in an
14 opening meeting, and that's one of the things
15 that you have to do in an open meeting is
16 deliberate.

17 And in fact, we are familiar with other
18 state agencies, that when they're presented with
19 a dispute like this one, that they hold their
20 deliberations in the open, in the open meeting,
21 as a part of the record. We discovered that it
22 has been the Commission's practice instead to
23 adjourn into a closed session, where the

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1 Commission discusses these cases and then comes
2 out and simply votes on them.

3 We believe that that was not in accordance
4 with the Open Door Law, so we filed a request for
5 an opinion with the Public Access Counselor. And
6 again, this was not to embarrass the Commission.
7 It was simply to point out what we thought was an
8 error, and also because my client would like to

9 know the reasons for this Commission's decision.

10 Ms. Haynes, counsel for the Commission,
11 responded to that, and I think she did something
12 that was very admirable. She said that even
13 though she did not think that the Commission had
14 violated the Open Door Law, that the Commission
15 would be committed to hold its deliberations in
16 the open moving forward and change its procedures
17 with respect to these closed-door adjournments.

18 Mr. Healy and I have sort of a respectful
19 disagreement over what the Public Access
20 Counselor's opinion means. There's no question
21 that the Public Access Counselor concluded that
22 the Commission had violated the Open Door Law in
23 its handling of this particular matter.

26

1 Mr. Healy believes that the only problem
2 with what the Commission did is that you did not
3 give proper notice of an executive session. It's
4 my belief and contention that it's broader than
5 that; that you could not have -- you were not
6 permitted to deliberate on this case in an
7 executive session. Even if you had noticed it up
8 as an executive session, that would have been a

9 violation of the Open Door Law.

10 But that dispute really doesn't matter,
11 because I believe that the Commission's counsel
12 has represented to the Public Access Counselor
13 that in the future, the Commission is going to
14 interpret the Open Door Law and follow a
15 procedure of deliberating cases in open meetings.

16 So, that having been the decision of the
17 Commission moving forward, the question is: What
18 do we do with this case? It's our contention
19 that because the Public Access Counselor has
20 given his opinion that the order that was issued
21 here, your order of May 30th, was in violation of
22 the Open Door Law, regardless of the reasons for
23 the violation -- and Mr. Healy and I love to

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1 argue about this, but it really doesn't matter --
2 that you should vacate that order, basically
3 declare it to be void, and start over again and
4 reconsider the case properly, in an open meeting,
5 with your deliberations open to the public and
6 made a matter of record, and that's the best way
7 for you to fix the error that the Public Access
8 Counselor has found here.

9 And I want to repeat -- if I say this too

10 many times, I don't blame you for getting tired
11 of it -- we did not pursue this course of action
12 to embarrass the Commission. If we had wanted
13 to, we could have filed a lawsuit in court to get
14 an injunction declaring your decision void.

15 Instead, our purpose here was simply to
16 find out what the basis was for the Commission to
17 remand this case back to the Administrative Law
18 Judge, and have that be a matter of record here,
19 rather than just what in essence was a very short
20 order saying, "This case is remanded. The Judge
21 doesn't know why we're doing this, the parties
22 don't know why we're doing this, a reviewing
23 court won't know why we're doing this. The case

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1 is simply remanded."

2 So, that's our purpose here, and what I
3 hope we accomplish here is that you will vacate
4 the order and reconsider the case, and reconsider
5 it either at this meeting, or perhaps at your
6 next meeting, after you've had a chance to review
7 the briefs and transcript again, and do it in a
8 way that's in compliance with the Open Door Law;
9 that is, to have your deliberations in the open

10 meeting so that the Judge and the parties know
11 what the reasoning is of the Commission.

12 Now, I'm not going to go too deeply into
13 the merits, Mr. Healy, but I do want to explain
14 another part of our motion to reconsider. When
15 you vacate the order, which we think you should
16 do, and reconsider it, we'd like you to pay
17 particular attention to one aspect of the case.

18 We think, again, that Judge Allen's
19 decision was correct. Her original decision was
20 absolutely correct, and if you review it again,
21 and review our briefs, we think you'll come to
22 that conclusion.

23 But in particular, we'd like you to take a

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1 look at the aspect of the case about Mr. Baker's
2 termination separated from the question of
3 whether or not it was race discrimination to
4 decline him the opportunity to come back to work,
5 which we disagree about, but we don't see any
6 evidence at all in this record that would support
7 a finding that the termination of Mr. Baker was
8 race discrimination.

9 Again, I won't repeat the language that he
10 used in talking to his employer. It was clearly

11 insubordinate, it was offensive, it was language
12 that no employer should ever have to put up with.

13 MR. HEALY: Your Honor, I must object
14 again. He's inserting argument on the merits of
15 the claim, and he's been admonished already once
16 by the Commissioners, and he just keeps doing the
17 same thing. I make the same objection.

18 MR. UHL: Commissioner, part of our
19 motion to reconsider does cover this ground.
20 This is part of our motion to reconsider is to
21 ask the Commission to review a particular part of
22 this, so this is part of what we've moved for in
23 the matter that's before the Commission this

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1 morning.

2 CHAIRMAN CARTER: I would like to
3 hear -- I was going to ask a question about that
4 very thing --

5 MR. UHL: Thank you.

6 CHAIRMAN CARTER: -- when it came
7 time, so I would --

8 MR. UHL: Thank you, Commissioner.

9 And there is no evidence in this record
10 that any white employee of this company engaged

11 in this kind of insubordinate conduct yet was not
12 punished. So, again, we think that when the
13 Commission takes another look at this case and
14 deliberates it in the open as required by the
15 Open Door Law, that the Commissioner should --
16 the Commission should conclude that Judge Allen's
17 summary judgment order be upheld in its entirety.

18 But at the very least, I think the
19 Commission should conclude that the termination
20 piece of this case -- that she should be affirmed
21 on that, and if you're going to send anything
22 back to Judge Allen at all, it should only be the
23 part of the case that has to do with requiring

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1 Mr. Baker to be on medical leave for that
2 ten-month period of time.

3 Commissioner, did you have a question.

4 CHAIRMAN CARTER: No. I mean --

5 MR. UHL: Okay.

6 CHAIRMAN CARTER: -- not at this
7 time.

8 MR. UHL: Okay. Well, if there are
9 no questions now, I'll turn the mike over to
10 Mr. Healy. Thank you.

11 CHAIRMAN CARTER: Thank you.

12 MR. UHL: Turn the mike over to Mike.

13 MR. HEALY: Good morning, and --

14 CHAIRMAN CARTER: Good morning.

15 MR. HEALY: -- thank you, ladies and

16 gentlemen.

17 The issue before you today is whether or

18 not your decision, which remanded the case back

19 to the Administrative Law Judge for hearing,

20 needs to be vacated. We submit that it does not.

21 You have several choices to look at. You have

22 several options to choose from.

23 One is that you can go back to the

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1 original decision and reorder deliberation or

2 oral argument, or you can decide not to vacate

3 and you can proceed to a hearing, or another

4 option -- and I'm not recommending this -- is to

5 simply redeliberate this case outside of the

6 presence of an executive session, do it in a

7 public session, without further oral argument,

8 without further briefs.

9 Now, Mr. Uhl has clearly presented his

10 arguments for purposes of appeal. He has

11 preserved that issue if and when this case goes

12 to the Court of Appeals on that subject. I say
13 that to reopen, to reargue the entire matter
14 again before you on objections, would be
15 tantamount to giving to the Respondent two bites
16 out of the apple.

17 The Complainant fairly came before you and
18 made arguments in favor of overturning Judge
19 Allen's decision. Likewise, Mr. Uhl came before
20 you and made arguments before you as to why Judge
21 Allen's decision should be sustained. There's
22 been no allegation made by Mr. Uhl that the
23 Complainant had any unfair advantage here in

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1 these proceedings, or that Complainant, by
2 counsel, sat in on any closed executive sessions.
3 Both parties had the same full, fair opportunity
4 to litigate this case, present the evidence
5 before this body.

6 The only error, according to the decision
7 of the Public Access Counselor, was that they did
8 not publish an agenda -- on the agenda -- that
9 there would be an executive session. There is no
10 statement in the Public Access Counselor's
11 decision that you cannot have an executive
12 session.

13 We are instead faced with a case, a
14 classic case, of making a mountain out of an
15 anthill, which is actually going to cause
16 prejudice to the Complainant. The Complainant is
17 now going to be forced into the position of
18 having to reargue the entire case twice if
19 Mr. Uhl has his way.

20 He's made no showing at all that having an
21 executive session become a public session would
22 in any way have affected the outcome. The
23 Commissioners have already asked questions of the

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1 parties, they looked at all of the evidence,
2 there was no deprivation of the rights. There
3 really was, in our view, a de facto deliberation,
4 because the Commissioners did in fact make very
5 pointed statements, questions to counsel. There
6 was public discussion regarding the case on the
7 merits.

8 Now, let's see what the law says on this
9 regard. According to the statute, which the
10 Public Access Counselor cited, executive sessions
11 may be held by an administrative agency under
12 certain instances. One has to do with litigation

13 that is pending or has been threatened in
14 writing. Litigation includes any judicial action
15 or administrative law proceeding under federal or
16 state law.

17 That, we believe, would include these
18 proceedings here under Indiana Code 5-14-1.5-6.1.
19 This has been interpreted by case law, which
20 specifically dealt with administrative agencies.
21 In the case of Baker versus the Town of
22 Middlebury, Indiana, the Court of Appeals held,
23 quote, the Open Door Law permits executive

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1 sessions in certain specified instances.

2 An executive session is defined as a
3 meeting from which the public is excluded, except
4 the governing body may admit those persons
5 necessary to carry out its purpose. Official
6 action requiring public busi -- meeting public
7 business is to receive information, deliberate,
8 make recommendations, take action, or make the
9 final decision.

10 The only official action that cannot take
11 place in an executive session is a final action,
12 which must take place at a meeting open to the
13 public. A final action is defined as a vote by

14 the governing body on any motion, proposal,
15 resolution, rule, regulation, ordinance or order.
16 You have done that. You took your vote in
17 public. You did not do that in private. You
18 took the vote. Therefore, you were in compliance
19 with the Indiana Open Door Law.

20 All that leaves us with is the issue of
21 proper notice. It is correct that there was no
22 notice on the agenda that an executive session
23 would be held. What I'm saying is that in effect

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1 this has been a harmless error, because there was
2 no harm demonstrated by Mr. Uhl in any respect.
3 He has failed to show that his client has been
4 prejudiced in any way by these decisions any more
5 than the Complainant has. We both had the same
6 full and fair opportunity to litigate this
7 proceeding.

8 You have the options before you. I
9 believe that the case does not require a remand.
10 If you wish to redeliberate in public, then I
11 will accept whatever decision that you happen to
12 make, but I don't think that this case ought to
13 be given more extraordinary import than has

14 already been cited by the Public Assess

15 Counselor.

16 Thank you.

17 CHAIRMAN CARTER: Thank you.

18 Mr. Uhl, do you have five minutes' worth?

19 MR. UHL: I hope I have less than

20 five minutes' worth, Your Honor. Thank you.

21 Of the options that Mr. Healy has

22 presented, it would be acceptable for us for you

23 to redeliberate this case in a public session

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1 rather than have us come back in and present

2 another hour's worth of arguments. As

3 Comm. Carter has said, I think you all are

4 familiar with the facts, you remember it, you

5 have the briefs, you have the transcript, you

6 have Judge Allen's ruling. I don't see the point

7 in us coming back in here and rearguing the whole

8 case.

9 I do see the point in the Commission

10 taking the time to redeliberate it in accordance

11 with the Open Door Law. Mr. Healy says that we

12 haven't been injured or harmed or that we can't

13 show that the Commission's decision would be

14 different. Well, of course, I can't show that,

15 because I don't know what happened in the
16 closed-door meeting, how the Commission reached
17 its decision.

18 There's an interesting dynamic in group
19 meetings, and that is that when people discuss
20 things out in the open, things come up that might
21 not have come up in a closed-door meeting. We
22 just don't know that, but that's -- we don't even
23 need to show that, because the Open Door Law has

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1 a provision in it that describes what needs to be
2 considered in determining whether an invalid
3 decision should be made void.

4 And again, there's no question here that
5 the Public Access Counselor has told us that that
6 May 30th order was in violation of the Open Door
7 Law, so the only question then is: Should you
8 vacate it and redeliberate?

9 The statute -- and I'll specifically cite
10 it -- is Indiana Code Section 5-14-1.5-7,
11 subsection (d), and it's quoted on pages three
12 through four of our motion to reconsider, and it
13 lists factors, and we think all of these factors
14 apply here.

15 "In determining whether to declare a
16 decision void, the court --" since this is
17 directed to the court this also applies to
18 you "-- should consider the following factors:
19 No. 1, whether it affected the substance of the
20 decision." Well, we don't know that. We don't
21 know whether the fact that the Commission
22 considered this in a closed-door meeting versus
23 the public actually affected the substance of the

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1 decision.

2 "Did the violation deny or impair access
3 to any meeting that the public had a right to
4 observe and record?" Answer: Yes. The Public
5 Access Counselor has said that the meeting that
6 was held was something that should have been held
7 in public.

8 "Did the decision prevent or impair public
9 knowledge of understanding of the public's
10 business?" And here, again, is most important
11 thing to my client. It impaired not only the
12 understanding of the public about how the
13 Commission goes about making its decision, but it
14 deprived my client of the opportunity to know the
15 reasons for the Commission's decision.

16 So -- and we think there are other factors
17 here in the statute, too. One of them is the
18 balancing of the court in determining whether to
19 void the decision as opposed to weigh the
20 remedial benefits gained by effectuating the
21 public policy of this state against the prejudice
22 likely to accrue to the public if the policy --
23 if the decision is voided.

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1 Well, here, then, that means that the
2 burden is actually on Mr. Healy to show how his
3 client would be prejudiced by deliberating this
4 case in the open. The public policy of the state
5 is that all decisions are deliberated in the
6 open. The presumption is that if decisions are
7 in a closed-door meeting, that that's an invalid
8 exercise of power. So, we think when you apply
9 those factors, those are the reasons why you
10 should -- you should vacate your decision.

11 And I'll just close with this observation.
12 Again, I think Counsel Haynes has made the right
13 decision to advise you that moving forward, to
14 deliberate these matters in open, in public
15 meetings, is the correct decision, and I think

16 that that demonstrates this Commission's
17 commitment to that particular public policy; that
18 is, to do business in the open, to have
19 transparent deliberations.

20 It would be ironic, though, if you decide
21 that even though you're going to have that policy
22 moving forward, that you're not going to apply it
23 to the very case that brought this problem to the

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1 Commission's attention. I think in order to be
2 consistent in that policy and follow through with
3 it, you need to apply that same policy to our
4 case and go ahead and vacate and reconsider your
5 decision of May 30th, 2014.

6 CHAIRMAN CARTER: Thank you.

7 MR. UHL: Thank you.

8 CHAIRMAN CARTER: Mr. Healy.

9 MR. HEALY: There is nothing in the
10 Open Door Law which states that the public must
11 be issued -- or that the Commission must give out
12 in writing the reasons for the decision that's
13 been made. Deliberations, meaning discussion,
14 but the reasons for the decision are not
15 something that are mandated under the statute.

16 This implies that these orders need to

17 state all of these reasons. There is nothing in
18 the Open Door Lay that says that, that this has
19 to take place. It does not, although
20 deliberations can be made in executive session as
21 long as notice is given.

22 Mr. Uhl has made certain -- allowed to
23 make certain inferences and statements regarding

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1 why this should be overturned. We're saying that
2 this is all a causation issue. There was a "but
3 for" here. But for repeated actions of
4 Mr. Triantos docking Complainant pay in a
5 discriminatory manner, unfairly removing him from
6 his work, failing to return him to work, filing a
7 complaint itself that gave to Mr. Triantos
8 retaliatory motives, all of these contributed to
9 the confrontation that finally took place.

10 And we're not saying before you that you
11 have to believe everything the Complainant says,
12 or the Respondent. All we have said from the
13 outset was that these statements, these pieces of
14 evidence we've given to you, create a genuine
15 issue of triable fact that therefore needs to go
16 before the Administrative Law Judge, and that has

17 been done.

18 Your decision, we believe, was the correct
19 one, to remand, to send it back to the
20 Administrative Law Judge.

21 Thank you.

22 CHAIRMAN CARTER: Thank you.

23 Before I turn this over to other

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1 Commissioners for questions, I want to verify one
2 thing that I don't -- I'm old enough I can
3 question my own memory. The initial case was a
4 request for summary judgment, was it not?

5 MR. UHL: Yes, Your Honor. We had
6 moved for summary judgment.

7 CHAIRMAN CARTER: And so, the issue
8 is whether there is enough dispute over the facts
9 to warrant a hearing?

10 MR. UHL: That's exactly correct.

11 CHAIRMAN CARTER: Okay.

12 Do -- does -- do any of the other
13 Commissioners have questions addressing this
14 issue?

15 COMM. RAMOS: Well, from my
16 standpoint, just to get into my nonlegal mind,
17 there are four options -- correct me if I'm

18 wrong -- one, we uphold the previous decision
19 that was made, as stated by Mr. Healy, that we
20 decide we were compliant with the aspects of the
21 legal code. So, that's one option. Again,
22 correct me if I'm wrong as I go along.
23 Two, we can provide a response back if

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1 that addresses the requirements of Mr. Uhl.
2 That's an option, of course, if we so chose --
3 wanted to do that, not necessarily that we have
4 to, but that's an option.

5 The other option is that we can
6 redeliberate in public the elements that came
7 from that.

8 And the third -- or fourth, rather -- is
9 to vacate and remand the process.

10 Are those accurate?

11 MR. HEALY: Well, when you say,
12 "vacate and remand the process," what do you
13 mean?

14 (Comm. Blackburn arrived.)

15 COMM. RAMOS: Well, per the
16 recommendation from Mr. Uhl to vacate the
17 decision and to review those pieces back, which

18 goes back to the whole thing, which isn't
19 something anybody wants to do, but I just wanted
20 to understand it as an option.

21 MR. HEALY: I don't think Mr. Uhl --
22 he can speak for himself, but I don't think he
23 said that he wants the decision of the Commission

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1 to be completely overturned and that summary
2 judgment be automatically reinstated. I don't
3 think that that's quite what he said. I think
4 it's what he might like to have happen, but that
5 absolutely would be a total denial of
6 Complainant's due process rights.

7 COMM. RAMOS: I understand.

8 MR. UHL: And actually, that is what
9 I said. We -- it's really a two-step process,
10 Commissioner. First, you make the decision, "Are
11 we going to vacate that May 30th order, or are we
12 going to let it stand?" And then the way you
13 would do that is you'd say, "We're going to deny
14 your motion to reconsider. We're just going to
15 just let everything stand status quo."

16 But if you decide that it would make sense
17 to vacate your May 30th order, then you have
18 options with respect to how you're going to

19 proceed in terms of redeliberating the matter.
20 You could hold arguments again on the objections,
21 you could redeliberate based on the record that
22 you have before you, and you could do that
23 redeliberation in an open meeting, which would

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1 give us the ability to have the advantage of what
2 the Commissioners are thinking about and
3 deliberating on when they're deciding whether or
4 not to affirm or reverse Judge Allen's original
5 decision.

6 MR. HEALY: Well -- I'm sorry.

7 MR. UHL: And to make it clear, we
8 have said in our brief, and I have said here
9 today, that if you decide to vacate the May 30th
10 order, one of the options you have is to go back
11 and say, "Well, maybe we were wrong. Let's go
12 ahead and reinstate Judge Allen's order in its
13 entirety." That doesn't deny due process to
14 Mr. Baker. He's had the opportunity to present
15 arguments here regarding that.

16 CHAIRMAN CARTER: Okay.

17 MR. HEALY: Excuse me. One other
18 option that I don't think was clearly made was

19 that you could redeliberate in another executive
20 session, provided that you give adequate notice
21 at the meeting that this will be --

22 CHAIRMAN CARTER: Sure.

23 MR. HEALY: -- held in executive

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1 session.

2 MR. UHL: And that's where we --

3 MR. HEALY: That's not what -- and
4 that's where he and I disagree, but I think that
5 that is what is permitted under the statute.

6 MR. UHL: And to make it clear for
7 the record, we do think that would be a violation
8 of the Open Door Law. We do not think
9 deliberation can occur in an executive session,
10 but it would be inconsistent in any event with
11 this Commission's commitment through its counsel
12 to deliberate these matters in open meetings.

13 CHAIRMAN CARTER: As the person who
14 chaired the previous discussion and hearing, I --
15 I think that I -- there were two areas where I
16 possibly confused things. One is the nature of
17 deliberations, and the other is giving reasons
18 for the findings.

19 And internally, we have been asked over

20 the years when we review appeals, that the
21 appeals that have been found no probable cause,
22 if we want to overturn that, we are asked to give
23 our reasons so that the investigative staff and

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1 so forth can follow through on that, and I think
2 that's reasonable, and I agree with you that we
3 should have included in our finding the reasons
4 for that, to be consistent.

5 As far as deliberations go, none of us is
6 a lawyer, and I think we -- the way juries seem
7 to work everywhere, whenever I'm on jury duty, in
8 movies and so forth, is that juries deliberate in
9 private, so it seems reasonable for us, as --
10 acting as a jury, to deliberate in private and
11 then come up -- admittedly we should have given
12 reasons along with our conclusion.

13 I would ask our panel if my memory is
14 correct that our reason for remanding it was that
15 we thought there was a material -- an issue of
16 material fact, or material issue of fact,
17 whatever that phrase is, that did the continued
18 denial of rehiring Mr. Baker rise to a level
19 where his final reaction, which was, yes,

20 insubordinate, was he driven to that by
21 continually being denied employment for what
22 appeared to him to be a pretext, or was his
23 employer being -- exercising due caution about

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1 his own well being, and is therefore blameless in
2 that?

3 And I don't think -- is that the way you
4 remember it, any of you Commissioners? Because
5 that's the way I remember it, that we thought it
6 ought to be heard to determine that.

7 COMM. BAYNARD: Yes, that's the way I
8 remember it. We felt there was more to this case
9 than was brought out in summary judgment.

10 CHAIRMAN CARTER: Okay. Does anyone
11 have another opinion?

12 (No response.)

13 CHAIRMAN CARTER: Okay. Well, I --
14 is that a sufficient reason? Does that satisfy
15 your quest for, "Why did they decide that way?"

16 MR. UHL: I think that's a great
17 example, Commissioner, of how open deliberations
18 can supply the reasons for the record. I don't
19 know that there's a big difference between a
20 group like this conversing in the open about its

21 reasons, just as you started the process of doing
22 versus sitting down and writing out written
23 reasons.

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1 I think the reason the Open Door Law
2 includes deliberation as something that
3 constitutes open -- what's something that should
4 be open action is because that kind of
5 interchange between the Commissioners can provide
6 the reasons and can let us all know why it is
7 that the Commission made its decision.

8 CHAIRMAN CARTER: Well, I can open
9 the door and say that what we discussed then in
10 April was no different from what just happened in
11 terms of content.

12 Shall we have a vote and revote to --

13 COMM. CRENSHAW: If we are acting as
14 a jury, so to speak --

15 CHAIRMAN CARTER: Uh-huh.

16 COMM. CRENSHAW: -- and juries
17 deliberate behind closed doors, and they give a
18 verdict, guilty or not, they don't say a reason
19 why, how do you see us as different if we're
20 acting as a jury?

21 MR. UHL: All right. It's very
22 simple, Your Honor. The Open Door Law doesn't
23 apply to the judicial branch. It doesn't apply

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1 to juries. So, in the judicial branch, the
2 legislature has made this determination that
3 juries -- and Mr. Healy and I chatted yesterday
4 about the Supreme Court, which goes behind closed
5 doors and deliberates cases -- that the open-door
6 concept doesn't apply to the judicial branch.

7 It does apply to the administrative
8 branch, and that's the reason. It's because the
9 legislature has made a distinction between
10 judicial proceedings and administrative
11 pleadings.

12 CHAIRMAN CARTER: Okay. Would --
13 yes.

14 COMM. RAMOS: I would like the Deputy
15 Director to weigh in her opinion or comment on
16 this.

17 MS. HAYNES: The Commission -- today
18 you've been presented several alternatives to
19 your decision. First would be if you would
20 vacate your original decision based on the Public
21 Access Counselor's determination that there was a

22 violation of the Open Door Law.

23 Now, that vacating of the opinion can do

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1 one of two things. You could then act from there
2 and continue to say, "We don't want to hear
3 objections on this matter. We will proceed to
4 default almost to the Administrative Law Judge's
5 decision," or you can determine from there, you
6 will rehear objections and make a determination.

7 Alternatively, you can determine that
8 despite the Public Access Counselor's opinion
9 that there was a violation of the Open Door Law
10 here, that that was a harmless error and that --
11 if I understand staff counsel correctly, that
12 that would result in you being able to proceed
13 with your decision to remand the matter.

14 So, you have a few options here, and I
15 will ask both parties, am I clearly stating both
16 sides of the matter?

17 MR. UHL: I think that's a very fair
18 summary, yes.

19 MS. HAYNES: So, from there, you have
20 the decision to make as to what you find to be
21 appropriate, but I will say that for the record,

22 as Attorney Uhl pointed out, the Commission
23 decision was that we would engage in discussions

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1 in the public.

2 Now, there is a question as to whether you
3 may do that in an executive session or whether
4 you can simply deliberate in the public. That is
5 a question that's been left unresolved by the
6 Public Access Counselor. So, you may make a
7 determination based on those options.

8 COMM. RAMOS: Thank you.

9 CHAIRMAN CARTER: Thank you.

10 Does anyone think that we can't resolve
11 this without resorting to executive session or
12 starting all over, throwing the whole baby, bath
13 water and whatever the tub is out and starting
14 all over, or can we revote on the thing, or do
15 you feel prepared to redo a vote and perhaps come
16 to a different conclusion, giving reasons?

17 (No response.)

18 CHAIRMAN CARTER: I -- my vote is
19 that we remand for the reason that I gave
20 earlier, that there is a material issue that
21 should be investigated, and that is: To what
22 degree was Mr. Baker's outburst instigated by the

23 circumstances rather than simply a violation of

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1 his lowly position as an employee?

2 Mr. Ramos -- Comm. Ramos?

3 COMM. RAMOS: I wasn't here for the
4 open discussions back in May, although I have
5 read through the pieces of stuff. I think
6 that -- you know, I'm not sure that I'm the
7 best -- because I didn't hear the arguments, I'm
8 not sure I'm the best person to make that
9 recommendation, but I do have confidence in the
10 Commission and the Commissioners on their
11 decision.

12 COMM. BLACKBURN: I'd agree with
13 that. I think that having already stated today
14 certainly in public the reasons and reiterating
15 the circumstances that led up to a
16 recommendation, I would support the conclusion
17 reached by the Commissioners.

18 CHAIRMAN CARTER: Comm. Baynard?

19 COMM. BAYNARD: The way I understand
20 it is that the Public Access Counselor said that
21 we were in violation of the Open Door Policy --
22 or Law, but the only violation was that we didn't

23 give notice for the executive session, and I

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1 think that -- I mean there was -- there was -- we
2 weren't trying to commit any sort of a harm, but
3 I would think that we also -- we came to the
4 conclusion that there's something more to this
5 case, and it needs to be heard in a full hearing.

6 CHAIRMAN CARTER: Okay.

7 Comm. Gidney?

8 COMM. GIDNEY: Okay. Yeah, I agree
9 with the same comments and concerns that have
10 already been presented with regard to our
11 position at the time that the decision was made,
12 and as well as the interpretation of the Open
13 Door Law and the decision to -- you know, to have
14 a discussion and the fact that the notice wasn't
15 given for the executive session. But again,
16 personally, I don't see a reason to undo our
17 decision from May.

18 CHAIRMAN CARTER: Comm. Crenshaw?

19 COMM. CRENSHAW: I agree with all of
20 the comments.

21 CHAIRMAN CARTER: Okay. May I have a
22 motion to -- I guess I have to address the
23 objection, so to reject the objection to our

1 previous action, and also reaffirm our remanding
2 of the case to the ALJ.

3 COMM. BLACKBURN: Second.

4 CHAIRMAN CARTER: There I made a
5 motion when I asked for a motion again. Is
6 that -- procedurally, does that satisfy both
7 parties?

8 MR. HEALY: It satisfies the
9 Complainant.

10 MR. UHL: I think procedurally what
11 I'm hearing you say is that you're voting to deny
12 our motion to reconsider and to reaffirm your
13 decision in -- or the other way to put it would
14 be you're going to grant the motion to
15 reconsider, but then reaffirm your decision.

16 CHAIRMAN CARTER: We did just
17 reconsider, so --

18 MR. UHL: Okay.

19 MR. HEALY: And you did deliberate in
20 public.

21 CHAIRMAN CARTER: And we deliberated
22 in public --

23 MR. HEALY: Yes.

1 CHAIRMAN CARTER: -- to painful
2 extent.

3 MR. UHL: So, probably what your
4 order should read, then, is that "We're going to
5 grant the motion to reconsider, vacate the order,
6 but then reaffirm the order and remand the case
7 to the ALJ --"

8 COMM. BLACKBURN: Yes.

9 MR. UHL: "-- for the reasons stated
10 on the record."

11 CHAIRMAN CARTER: Okay. And you have
12 the record, so we --

13 MR. UHL: And by the way, by my
14 having suggested that wording, I don't want to
15 suggest at all that we're agreeing to that
16 result.

17 CHAIRMAN CARTER: No.

18 MR. UHL: We still object to the
19 order on the merits and --

20 CHAIRMAN CARTER: Uh-huh.

21 MR. UHL: -- we still think the ALJ
22 should be affirmed, but I'm just trying to help
23 you out in your --

1 CHAIRMAN CARTER: Thank you. I
2 appreciate -- we need all of the help we can get
3 with the legal tangles.

4 COMM. RAMOS: Do we need to take a
5 vote on --

6 CHAIRMAN CARTER: Oh, yeah. Thank
7 you.

8 All in favor of whatever that motion was,
9 what he said, and what the ALJ wrote down that I
10 saw.

11 No?

12 JUDGE ALLEN: No.

13 CHAIRMAN CARTER: Good.

14 Okay. All in favor of the motion to --
15 oh, here comes legal counsel.

16 MS. HAYNES: Just to be clear --

17 CHAIRMAN CARTER: Yes.

18 MS. HAYNES: -- I'm not providing
19 legal advice. As Deputy Director, it's a
20 position of counsel. And so, my understanding of
21 what you're saying is that your decision is to
22 grant the motion to reconsider --

23 CHAIRMAN CARTER: Uh-huh.

1 MS. HAYNES: -- to vacate the
2 previous decision that you made in May that was
3 done in closed doors --

4 CHAIRMAN CARTER: Uh-huh.

5 MS. HAYNES: -- but to essentially
6 reaffirm that decision or to grant Complainant's
7 objections, so the case will proceed to a
8 hearing.

9 COMM. BLACKBURN: I would object to
10 using the phrase, "behind closed doors" or "in
11 closed doors." In no sense were the
12 deliberations --

13 CHAIRMAN CARTER: Right.

14 COMM. BLACKBURN: -- in closed doors.

15 CHAIRMAN CARTER: We did vote in open
16 court.

17 MS. HAYNES: Let me rephrase that --

18 COMM. BLACKBURN: Okay.

19 MS. HAYNES: -- for the benefit of
20 the Commission, that the deliberations were
21 performed off the record.

22 CHAIRMAN CARTER: Okay. All right.

23 May I have a vote to support the

1 determination that our previous decision was made
2 off the record and that, although we did vote in
3 public session, we will now reaffirm that vote
4 and remand the case to the ALJ? Does that cover
5 everything?

6 COMM. BLACKBURN: (Nodded head yes.)

7 CHAIRMAN CARTER: So, I need a vote.

8 COMM. CRENSHAW: So moved.

9 CHAIRMAN CARTER: All right. And a
10 second -- or all in favor? I think it's seconded
11 already.

12 COMM. RAMOS: Yes.

13 CHAIRMAN CARTER: Okay. All in
14 favor?

15 COMM. RAMOS: Aye.

16 COMM. BLACKBURN: Aye.

17 COMM. BAYNARD: Aye.

18 COMM. CRENSHAW: Aye.

19 COMM. GIDNEY: Aye.

20 CHAIRMAN CARTER: Aye.

21 Any opposed?

22 (No response.)

23 MR. UHL: Thank you, Commissioners.

1 MR. HEALY: Thank you.

2 CHAIRMAN CARTER: Thank you.

3 JUDGE ALLEN: I'm sorry; may I ask
4 the Commission a question regarding how we move
5 forward? And maybe counsel can stay while I ask
6 this question so that whenever we do conduct this
7 hearing, we have an idea what exactly the legal
8 rationale is for the remand. So, as you all know,
9 I've granted the Respondent's motion for summary
10 judgment, so you're remanding for me to conduct
11 the hearing on what purpose, on what basis? So,
12 what is the legal rationale for the remand?

13 CHAIRMAN CARTER: To determine if
14 there is a difference of opinion of material fact
15 of whether Mr. Baker was fired for a
16 discriminatory reason for his language on that
17 particular day, for -- whether the employer,
18 Roman Marblene, kept him out of work for a
19 legitimate reason or a less-than-legitimate
20 reason, which might have been discriminatory or
21 might not; that there seemed to be different
22 opinions about what the relationship was between
23 employer and employee, and summary judgment

1 doesn't speak to those, in my opinion.

2 COMM. RAMOS: That's true.

3 COMM. CRENSHAW: It maybe has to do
4 with a possible hostile environment.

5 CHAIRMAN CARTER: And as I recall in
6 the case, that Mr. Baker had documentation that
7 he was okay to go back to work, and Roman
8 Marblene still didn't think that he was -- that
9 they ought to let him go back to work.

10 JUDGE ALLEN: Okay.

11 CHAIRMAN CARTER: And that created a
12 situation where he thought he was being screwed
13 over, and said so at one point, and was dismissed
14 for insubordination, but if it could be
15 interpreted as a situation where he was being
16 outraged rather than insubordinate.

17 JUDGE ALLEN: Okay. Thank you so
18 much.

19 CHAIRMAN CARTER: I don't know how
20 legal that is, but it's certainly something I've
21 been empathizing with in the situation. But law
22 is not always that empathetic.

23 MR. UHL: I'll reserve comment on

1 that.

2 MR. HEALY: Are we done?

3 MR. UHL: I think so.

4 CHAIRMAN CARTER: Thank you.

5 MR. HEALY: Thank you.

6 MR. UHL: Thank you, Commissioners.

7 CHAIRMAN CARTER: I'm glad we were

8 able to get through the thicket.

9 Executive Director's Report, please.

10 MS. HAYNES: Yes, and with that, we

11 are transitioning to the Report. Good morning

12 again.

13 COMM. GIDNEY: Good morning.

14 COMM. BLACKBURN: Good morning.

15 MS. HAYNES: So, as you probably

16 noticed, we've been quite busy lately. On

17 September 20th, we engaged in numerous events;

18 namely, FIESTA Indianapolis, in which our own

19 Executive Director of ICHLA, Danielle Dean, and

20 our staff participated; as well as the Kings

21 Feast Symposium, that the Executive Director of

22 the Indiana Commission on the Social Status of

23 Black Males, Mr. James Garrett, participated as

1 well.

2 In October there have been several events,
3 and a few more to go; namely, on the 4th, there
4 was the Hammond Hispanic Community Committee 2014
5 Latino Resource Fair. And on the 17th, in
6 conjunction with the Indiana Association for
7 Administrative Law Judges, we engaged in a CLE;
8 namely, covering matters of administrative law.

9 And today, there is a CLE occurring in
10 West Lafayette discussing "The Rights of the
11 Affordably Housed: Making Section 8 and Public
12 Housing Fair."

13 Now, upcoming, we have several CLE's as
14 well. On November 6th we're having a Community
15 Resource Night in Hammond in conjunction with the
16 City of Hammond and their community partners, and
17 on the 7th and 14th, there will be two CLE's.
18 The first, entitled "Disability Law for Dummies,"
19 compassionately named because there needs to be
20 more CLE's on this matter.

21 We are proud to announce that we have
22 speakers from the United States Attorneys Offices
23 for both the Northern and Southern Districts, and

1 that will take place in Fort Wayne and is in

2 conjunction with the Allen County Bar

3 Association.

4 And lastly, November 14th, there will be a
5 CLE entitled "Civil Rights Issues in Education."
6 As you know, it's a topic that the Commission is
7 passionate about. This will be one of the first
8 CLE's regarding that matter, and that will take
9 place in Kokomo.

10 So, moving on to our contracts, I'm
11 pleased to announce we have met both the EEOC and
12 HUD contracts for their applicable years; namely,
13 the EEOC slated us to provide 338 cases, and we
14 actually exceeded that, so we requested an upward
15 modification, but that we denied on the basis of
16 funding issues from the EEOC.

17 So, as such, we are increasing the number
18 of cases we will be completing for this next year
19 that actually started October 1st and goes
20 through September 30th, and we'll be asking for
21 400 cases.

22 Similarly with HUD, HUD's contract is a
23 bit different in that you can submit beyond what

1 that contract number is. The contract only asked

2 for a hundred cases. We submitted 132, and we
3 are well on our way for this year's contract, as
4 we already have 34 cases completed.

5 Do you have any questions on these
6 matters?

7 (No response.)

8 MS. HAYNES: Hearing none, I'd like
9 to introduce Brad Meadows. He is the Deputy
10 Directory of External Affairs, and he will be
11 providing an update regarding our Cultural
12 Commissions.

13 Thank you.

14 MR. MEADOWS: Good morning.

15 CHAIRMAN CARTER: Good morning.

16 MR. MEADOWS: Thank you so much for
17 allowing me to speak. I am here for Jamal.
18 Jamal is traveling this week. He's actually in a
19 conference up in Northwest Indiana, so he passed
20 on his report for Akia and I to share this
21 morning.

22 I know that there has been talk about the
23 Native American Commission, which falls under the

1 purview of the Civil Rights Commission, like the
2 other four cultural commissions with the State of

3 Indiana. I'm pleased to report that the Native
4 American Commission had their first meeting in
5 some time last Wednesday.

6 The Commission was reappointed by the
7 Governor's Office in August, as you all are aware
8 of, and I'm pleased to report that the Commission
9 had a quorum at the meeting. There was actually
10 14 of the 17 Commissioners in attendance.

11 We are in the process now of looking for
12 an Executive Director for the Commission, much
13 like our other cultural commissions, to lead the
14 Commission moving forward. There's a lot of
15 enthusiasm by the Commissioners, which is
16 refreshing. They're all very excited to get
17 started, hit the ground moving, and we look
18 forward to our next meeting in February of 2015.

19 We also are having -- as we talk about our
20 cultural commissions, the MLK program is right
21 around the corner. Those activities will take
22 place January 15th and 16th, the Thursday and
23 Friday before the Dr. King Holiday, so we are

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1 actively engaged with the Dr. King Commission.
2 We have a meeting with them, a public meeting, on

3 November 12th, which we will go over all of the
4 activities for this year and get approval from
5 the Commissioners.

6 The program looks to be very similar as it
7 has been in the past. We will have a Youth
8 Summit on Thursday, January 15th, followed by a
9 Statehouse program, and then other Day of Service
10 on that Friday, where we will be in the community
11 doing cleanup and working on a number of
12 different outdoor and indoor community service
13 projects as part of the Northwest Indianapolis
14 reintegration or re -- I can't think of the work
15 word, excuse me, but they had a project where
16 they're rebuilding that neighborhood. So, we're
17 a part of that process, and we look forward to
18 being involved with that this year.

19 Any questions for me?

20 COMM. BLACKBURN: The program will be
21 on the 16th at the Rotunda?

22 MR. MEADOWS: The 15th, which is that
23 Thursday.

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1 COMM. BLACKBURN: Thursday; okay.

2 MR. MEADOWS: Thursday, January 15th
3 will be the Statehouse program, and that'll be at

4 12:30 in the Statehouse Rotunda.

5 All right. Thank you.

6 CHAIRMAN CARTER: Thank you.

7 Are there any announcements besides the

8 one I have?

9 COMM. RAMOS: Besides the one you
10 have? Okay. That's quite a lead into it.

11 CHAIRMAN CARTER: Hearing none, I'll
12 go ahead. I -- since October of 1989, I've been
13 a member of the group in -- when it was founded,
14 of a group in Bloomington called the Council for
15 Community Accessibility, and we do, in March and
16 April -- March is statewide -- nationwide --
17 Disability Awareness Month.

18 And we also do Accessibility Awareness
19 Month in April, mainly because IU has a summer
20 break -- or spring break in March, and so for
21 half of the month nobody's there, and also the
22 weather is awful, and if we take people out in
23 wheelchairs in March weather, they're usually not

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1 grateful. They don't learn much, although we

2 think that they do.

3 Anyway, the program we have every year is

4 different, and it is going to be recognized at
5 the Governor's Disability Council -- or
6 Disability -- yeah, Disability Council Conference
7 in December, with their annual award for
8 awareness activity. That's the long way around
9 to get to that.

10 Any other announcements?

11 (No response.)

12 CHAIRMAN CARTER: No. Keep in mind
13 the meeting dates for the remainder of the year,
14 November 21st and December 12th, which
15 December 12th will not be in this room, but down
16 at the other end.

17 And if that's the end the business -- are
18 there things to sign?

19 MS. RINCONES-CHAVEZ: Yes.

20 CHAIRMAN CARTER: Yes. Okay. Stay
21 for signatures, and the meeting is adjourned.

22 (Discussion off the record.)

23 COMM. BLACKBURN: The Indiana Civil

1 Rights Commission is now reconvened for the
2 purpose of allowing public comment, and I welcome
3 you. Will you please introduce yourself?

4 MR. BELL: My name is Lloyd Bell, and

5 I really don't know a lot about how this go [sic]
6 or what I'm supposed to do. The only reason I'm
7 here today is because I believe that I have been
8 done unfairly, and I believe that my landlord --
9 and I've got recordings of these conversations,
10 because I knew that nobody would believe me
11 because of some of the diagnoses that they said
12 that I have.

13 They think that I was either exaggerating
14 or blowing it out of proportion, "How can this
15 person say these things or do these things to
16 [me]?" So, rather than to have them trust what I
17 said, I decided to record it, and I've got
18 recordings of this.

19 I don't understand if I'll get to play
20 them, but everything that I cited in my case
21 about what they did, what they said, how they
22 forced me to have to take that 60-day notice or
23 continue the eviction, I've got that on tape,

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1 with me asking Joe Beatty, who is my landlord,
2 what the regional manager -- and who I've talked
3 to on many occasions about this lady harassing me
4 and trying to provoke me into saying something

5 where I would violate my lease.

6 I would come into her office and ask her a
7 question, and this lady will -- she'll talk
8 condescending to me. I mean for whatever reason,
9 I don't fit her view of what a disabled man is
10 supposed to look like or act like or whatever,
11 and because of that, she -- she prods me. She'll
12 say different things to intimidate me.

13 Like, for example -- and you can -- I've
14 got a recording of something similar to what I'm
15 telling you right now. I went into her office
16 and I was talking to her about taking some
17 training with vocational rehab. Vocational rehab
18 put me in training to teach me how to work on
19 cars, and that's why I work on cars now. And it
20 was therapeutic for me, and why didn't they have
21 a problem with this when I first moved in?

22 Now, I've been in the apartment complex
23 for eight years. I've never had not one problem

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1 with nobody over there except for my landlord. I
2 have called the regional director, got it on tape
3 where you can hear it yourself if you want to,
4 where I talked to him, told this man that this
5 lady was harassing me, trying to provoke me into

6 saying something threatening, because she know
7 the nature of my condition, and she knows some of
8 the things that I have to deal with.

9 And I guess -- it makes me feel like she
10 wants me to say something threatening where she
11 can violate my lease and cause me to lose my
12 house. Any chance that she get to do something,
13 like, for example, if I get -- my car break down,
14 she'll call the tow truck, even after giving me
15 an agreement to work on it, and I've got that on
16 tape, too, where she -- you'll hear her say that
17 she agreed to allow me to work on the car.

18 But the day that I started working on the
19 car is the day that she sent the tow truck to tow
20 it. So, I wound up having to ask somebody -- a
21 tow truck come, because I've got tow receipts in
22 my bag, too -- that will -- that moved my car to
23 another location to keep her from having me lose

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1 my vehicle. Now, there are cars on that parking
2 lot that have been there for months.

3 I've got a recording of the maintenance
4 man, while me and him are standing there talking,
5 and I specifically point out a car that had been

6 sitting there for over 30 days, and asked him,
7 "How is it possible for you to pass by a car
8 that's 25 feet from the street to get to mine,
9 when there's no visible damage?"
10 I mean my car's not all flat. I mean the
11 only thing that's wrong with my car, there's
12 something that's going on under the hood. As far
13 as the way it looks, it's clean, it's not all
14 flat. "Well, why would you put a sticker on mine
15 and pass by one with expired tags and all flat,
16 and never been put a sticker on it?" I
17 complained about it. It still took two weeks to
18 finally get out, put a sticker on that car, and
19 another week to actually have it moved.
20 I called, asked Mr. Joe Beatty about that.
21 I said, "Well, Mr. Beatty, you know, what's going
22 on? I mean how is it possible to do this?" And
23 I told him the same thing. You'll hear that on

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1 the recording, with me and I'm talking.
2 "Mr. Beatty, how is it possible for these guys
3 who are tagging these cars to pass by this car
4 and some other vehicles that are clearly all
5 flat, damaged, and get to mine, when mine is --
6 you look at it, don't like look a thing's wrong

7 with it? I keep it wiped off, the tires are

8 pumped up. Well, what's the problem?"

9 Now, instead of punishing me for going --

10 like, for example, if I -- if I had the car and

11 the car broke down and it sat there like the

12 other one for months, I can understand having a

13 problem with it. But if a car break down within

14 a couple of days, it's not there no more. They

15 won't even allow me to fix my car, but they'll

16 leave these other ones sitting there for weeks

17 and weeks at a time, and you'll hear the

18 maintenance man verify the same car that I'm

19 talking to you in a conversation that I recorded

20 with him.

21 How I got in this situation in the

22 beginning was this: My car -- my mother went

23 into the hospital for pneumonia, and we thought

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1 she wasn't going to make it because her lungs

2 were filling up full of fluid. I took part of my

3 disability check, which was \$174, bought a

4 route-trip ticket down to see my mother, because

5 I didn't think she was going to be here.

6 Now, when I get there, four or five days

7 later my mother's fine. She gets up and comes
8 back from the hospital. She's fine. The day
9 that I get ready to leave, my brother dies, so as
10 soon as my mother gets out of the hospital, my
11 brother dies. So, I wind up having to stay a
12 week. I wound up spending a little bit more of
13 my check than I had to cover my rent.

14 When I got back, I explained this to the
15 landlord, and you'll hear that on the tape, too,
16 "Landlord, look, I just came back from my
17 brother's funeral, and I just don't have the
18 money. If you'll give me a little time, I'll get
19 everything caught up." I told them that I deal
20 with some agencies that would help me get these
21 things caught up.

22 This lady agreed. She said, "Okay. I'll
23 give you till Friday." Now, this was on a

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1 Wednesday when I talked to her. She said, "I'll
2 give you till Friday to come up with the money."
3 I said, "Well, ma'am, I don't know whether I'm
4 going to be able to come up with this money by
5 Friday, because I'm not the one that's going to
6 have to approve it. This is a benevolence
7 committee. They've got to talk to five or six

8 different people before they finally come up with
9 a decision."

10 Now, I talked to them. They said that
11 they'd try to get it to me Friday, but they may
12 get it to me as soon as Monday, but I can't
13 guarantee that. I called this lady back, I think
14 it was -- well, no, I went down to her office
15 Monday, and her and the maintenance guy was
16 closed.

17 Now, the 5th fell on a weekend. Monday
18 was the 6th. I had the confirmation from the
19 people that were going to help me make this
20 payment that they would be releasing a check for
21 me to pick up, where I could bring it back by the
22 office. Her and the manager, they got the office
23 closed.

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1 So, the next day I get on the phone and I
2 call her and I tell her, I said, "Ma'am," I said,
3 "look, I've got the money for the past-due rent
4 and everything," and she said, "Well,
5 Mr. Bell --" and you'll hear this on the tape,
6 because I got her and me talking about this on
7 the tape, too. She said that "Mr. Bell, I'm

8 sorry; we cannot accept any money from you,
9 because we have sent your file to the attorney."
10 I said, "You've sent my file to the
11 attorney? You mean to tell me you can't accept
12 any money from me?" She told me straight out, "I
13 cannot accept any money from you at all."
14 So, I get off the phone with her, I call
15 the regional manager, Joe Beatty, and I get him
16 on the phone. "Mr. Beatty, look, you know,
17 what's going on? I mean this lady's telling me
18 that she can't accept my money. I mean what is
19 the problem? I mean I ain't never had no
20 problems here. I've been here for eight years.
21 Yeah, I've been late on my rent a couple of
22 times. Who ain't? They give you less than 800
23 bucks a month. I mean is that a reason enough to

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1 put me out?"
2 He said, "Well, I'll tell you what: I
3 can't give you no answer --" and I've got this on
4 tape, too. He said, "I can't give you no answer,
5 but what I'll do is I'll call Ms. Summers and
6 I'll get back with you let you know what she
7 said." So, I said, "Okay. Fine." Now, he
8 called me back probably about maybe a week later

9 and told me that he was coming down here, and he
10 wanted to meet with me and Ms. Summers. So, me,
11 him, Ms. Summers and the maintenance supervisor
12 met.

13 In this conversation, they had made their
14 mind up that I was going to have to move
15 regardless. Now, after this lady told me that
16 she wouldn't accept my money, I decided to go to
17 the attorney, their attorney, and talk to this
18 man, and I said, "Well, look, man --" I'm talking
19 to their attorney. I said, "Look, man, this --
20 this lady is bothering me."

21 And by the way, this is the 30-day notice
22 that they forced me to sign, and if I were in
23 violation, I've got a copy of my complete

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1 deposit. I've got my full deposit back. I'm on
2 housing. If I had been in any contractual
3 violation with that apartment complex, my housing
4 would not have transferred me to a new location,
5 and they definitely wouldn't have gave me my full
6 deposit back, and I can verify that because I've
7 got copies of that, too, right here.

8 Now, in this deal, I've got things where

9 this lady has just harassed me. I went over to
10 my neighbor's house and asked my neighbor to use
11 their lawn mower to cut my grass. She saw my
12 neighbor in his heating and cooling uniform. She
13 thought that he was a groundskeeper. She sent me
14 a notice -- I've got that right there, too --
15 that she wanted me to pay \$25 because I
16 inconvenienced the groundskeeper. When I told
17 her, she told me she didn't even want to hear it.
18 I either paid it or I had to move. So, I paid
19 the \$25.

20 Then there's a few times when I've been
21 late. This lady has sent me eviction notices for
22 being late three dollars on my rent, and I've got
23 that here, too, and I'll let you all take a look

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1 or make copies of all of this if you want to.
2 You don't have to go through it now. You can
3 make copies of everything and go through it at
4 your leisure; that way you can kind of match up
5 what I'm telling you, because I've got stuff that
6 I'm telling you now plus a bunch of other stuff
7 that I know I will not have time to cover.

8 But anyway, I -- I'm going to say this: I
9 am very, very, very frustrated at the fact that

10 this lady has decided that pull me out and judge
11 me because, for whatever reason, I don't fit her
12 script of what someone with my condition is
13 supposed to look like or act like.
14 Now, I have went into her office and I
15 have talked to this lady, and I have shown her, I
16 said, "Ma'am," I said, "look, I'm going to show
17 you something," and I'm going to show the
18 Commission, too. I went into her office -- I've
19 got a whole bunch of stuff here. I went into her
20 office and I showed her, I said, "Ma'am," I said,
21 "I don't know what it is, but for whatever
22 reason, you know, you seem to think that I'm just
23 laying around and I'm not doing anything, but

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1 that's not the case. I just cannot find someone
2 who will hire me, because when they find out
3 about --" and I'm not going to name out all of
4 the different things that -- the labels that
5 they've done put on me, but it's some stuff that
6 people just don't want to deal with, and they're
7 terrified to have someone with that around them.
8 And I cannot, for the life of me, find a
9 job. Now, I have completed this heavy equipment

10 class, where I operate backhoes, excavators,
11 dozers, skid steers, all of that, basic course.
12 I completed the advance course, where I operate
13 the same equipment, advanced. I've got a copy of
14 my transcript here.

15 Can you pass that around, if you don't
16 mind, and let them see it, or somebody, please?
17 For that -- as a matter of fact, you can pass --
18 actually, I'll just pass the whole stack and let
19 you look through it, and then I can talk while
20 you're doing that.

21 COMM. CRENSHAW: Can I see your -- if
22 possible, your 30-day, on not?

23 MR. BELL: Yes, ma'am, you can see

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1 that, too. As a matter of fact, that thing that
2 I was going to show you, I had the letter -- I
3 went to their attorney, and they dismissed the --
4 where is it? They dismissed the case. I'll find
5 it in here somewhere. Okay. Here's another
6 thing, too. This is my income.

7 COMM. CRENSHAW: While you're
8 doing -- while you're searching for your
9 additional paperwork, may I ask you a question?

10 MR. BELL: Yes, ma'am.

11 COMM. CRENSHAW: You live in an
12 apartment complex; correct?
13 MR. BELL: I did. I had to move.
14 COMM. CRENSHAW: At this place, you
15 lived in an apartment complex?
16 MR. BELL: I did. I had to move.
17 COMM. CRENSHAW: Right. Why --
18 correct me -- why are you cutting grass at an
19 apartment complex? Isn't that their
20 responsibility --
21 MR. BELL: Well --
22 COMM. CRENSHAW: -- the apartment
23 complex?

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1 MR. BELL: -- the outside of the
2 patio is, but anything enclosed inside of the
3 patio is the tenant's responsibility.
4 COMM. CRENSHAW: Oh, wow. Okay.
5 MR. BELL: And we have an enclosed
6 patio, and they require us to do that.
7 Another thing I want to show the
8 Commission, too. I have been on an operator
9 engineers waiting list for over nine years. Why
10 these people have not called me, I have no idea.

11 I scored 11.2 on the tagging test and 86 percent
12 on the Bendix mechanical test. Now, there's no
13 reason that would show anybody that I couldn't
14 perform in this operator engineers, especially
15 after completing vocational training, which is
16 the same thing, but they have not called me, and
17 up until this day, to this very day.

18 Now, what -- now, the only thing I can
19 think that it could possibly be -- it couldn't be
20 because of me being able to do the job, because
21 I've got scores and test results that verify and
22 show that I'm smart enough to get it, because I
23 even got it and completed it several times.

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1 Now, I know it couldn't be because of my
2 ethnicity, because I mean I think I deal with
3 everybody pretty much like a normal, decent human
4 being, so it couldn't be that. Well, what is it,
5 then? The only thing it could be is what they're
6 perceiving that's going on in my head. That's
7 the only thing I can think of that is what keeps
8 me out of finding a job.

9 I've got a counselor, Emmanuel Mains, who
10 has went out with me on at least a hundred
11 different occasions. This man can't help me find

12 a job either. He'll talk for me, and you can
13 call him if you want to at LifeSprings in
14 Jeffersonville. He's went out with me on a bunch
15 of different occasions. We ain't even got so
16 much as a callback.

17 COMM. RAMOS: I have a question. You
18 live in New Albany?

19 MR. BELL: I do now.

20 COMM. RAMOS: And where was this at?
21 What was your original residence?

22 MR. BELL: In Jeffersonville.

23 COMM. RAMOS: In Jeffersonville?

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1 MR. BELL: Gardenside Terrace.

2 COMM. RAMOS: Okay. And then a
3 question to Ms. Haynes.

4 MR. BELL: Oh, and here's one of
5 the -- some of the tags and stuff that they put
6 on my car to try to tow it.

7 COMM. RAMOS: If I might ask a
8 question, Ms. Haynes. So, from a jurisdiction
9 standpoint, this falls within our jurisdiction?

10 MS. HAYNES: Elaborate.

11 COMM. RAMOS: Well -- so, we're

12 obviously a state agency, but there are certain
13 segment -- Columbus has their group, Richmond has
14 theirs, et cetera.

15 MS. HAYNES: Yes, we -- the
16 Commission has jurisdiction over the entire State
17 of Indiana.

18 COMM. RAMOS: Okay. From the normal
19 process that this goes through, the first
20 elements are: Does he -- you know, is he in a
21 protected group; right? I mean I'm just trying
22 to step through these things, because obviously
23 there's a methodology and a process that we would

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1 normally go through, which is normally not at the
2 Commission level, but I just wanted to make sure
3 that he understands that process. Can we help to
4 explain that due process to him? What would you
5 recommend there?

6 MS. HAYNES: I don't know the exact
7 date. You should have a copy of it,
8 Comm. Baynard, in your file of the Notice of
9 Finding I issued in that matter, and that Notice
10 of Finding was issued to Mr. Bell.

11 COMM. RAMOS: I see. Thank you. I
12 missed that.

13 MR. BELL: Yeah, that Notice of
14 Finding was issued, but I made -- I wrote a
15 letter to the Judge, because I gave a list of
16 probably about 13 people, and talked to each and
17 every one of those people, and only one of them
18 told me that they had been contacted. I spoke to
19 the Judge about that, and the Judge granted my
20 appeal and gave me a few more days to put
21 something together to send back to her.
22 Now, when I tried to get these recordings
23 put on a CD audio, they wanted \$29 per CD audio.

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1 I don't have \$29, because if I paid that, I
2 wouldn't be able to pay my rent. So, I talked to
3 the Judge, because my time had ran out, and she
4 said that the only other option I had was to
5 appear in person.

6 And that's why I drove from New Albany
7 yesterday -- well, New Albany this morning, here
8 this morning -- to now, because I feel like this
9 lady has done me wrong, and -- and if it wasn't
10 for the people that have helped me to stabilize
11 myself, there was no way that I could afford to
12 find another place to live.

13 It was hard for me to find a place in the
14 first place, because most landlords wanted three
15 times the amount of the rent. Now, I get \$721
16 from Social Security a month. Unless my rent is
17 \$200, there's no place for me. And I'm not --
18 you can look at me. I'm not going to sleep up
19 under no bridge, and I'm not going to be pushing
20 no shopping cart. You can -- it ain't in me. I
21 mean I really hope you can tell.

22 COMM. CRENSHAW: Are you getting
23 rental assistance of any sort? Because I saw --

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1 MR. BELL: I get Section 8.

2 COMM. CRENSHAW: Okay.

3 MR. BELL: Yeah, and that's what I'm
4 trying to tell you. That's why -- the landlord
5 say --

6 COMM. CRENSHAW: Now, being that you
7 were evicted --

8 MR. BELL: I wasn't evicted.

9 COMM. CRENSHAW: Oh, she didn't evict
10 you?

11 MR. BELL: No, I wasn't evicted.

12 COMM. CRENSHAW: Oh, so, you're still
13 there?

14 MR. BELL: No, no, I was forced to
15 have to move. Let me show you something right
16 quick. I went to their attorney, and I'm going
17 to show you this letter that I got from the
18 attorney, sharing that -- showing that -- here it
19 is right here.

20 COMM. CRENSHAW: Is your Section 8
21 still intact?

22 MR. BELL: Yes.

23 COMM. CRENSHAW: Okay.

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1 MR. BELL: Absolutely, yes. I left
2 with -- they gave me my full deposit. See here?

3 Pass this to the Commission.

4 This is a letter from their attorney
5 dismissing this eviction.

6 COMM. CRENSHAW: Okay.

7 MR. BELL: This never came to court.

8 It never came to nowhere, because when me and
9 Mr. Beatty agreed to make that payment, I took
10 the payment in, and then as soon as I made the
11 payment, she was telling me that I had to move
12 anyway. And I'm like, "Well, wait a minute.
13 That don't seem right." So, I called John Hall

14 of the Indianapolis Field Office and I talked to
15 Mr. Hall, and --

16 COMM. CRENSHAW: Uh-huh.

17 MR. BELL: -- I said "Well, Mr. Hall,
18 this lady is asking me to move," because he
19 helped me before.

20 COMM. CRENSHAW: Uh-huh.

21 MR. BELL: He assisted with my
22 housing before, one time. And -- John Hall
23 helped me before, and then I called him back

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1 because I was running into some more similar
2 problems. I'm like, "Well, what is this?" So, I
3 called him, and he said, "Well, if you satisfied
4 your financial obligation to that rent, you
5 shouldn't have to move. Why are you moving?" I
6 said, "I don't know."

7 So, I went back, gave her a copy of this
8 letter, and about two weeks later, I get this
9 call from Mr. Beatty and them telling me that
10 we're going to have a meeting, and the only way
11 that I can continue to stay after I paid my money
12 is to sign this 60-day notice and find me a place
13 to move. If I don't sign the 60-day notice, then
14 what she's going to do is bring forward this

15 action about working on the cars, which is a
16 contract violation, and stir up another eviction.
17 Now, why she didn't bring up the working
18 on the cars when she initially said that it was
19 nonpayment of rent, if it was an issue then, I
20 have no idea. She waited until I gave her this
21 and had that dismissed, and then told me, "So,
22 even though you done paid your money, you still
23 can't stay." And Mr. Beatty agreed with her.

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1 And I was like, "I've got to find me a
2 place to stay?" Well, she kept trying to give me
3 30 days. I said, "Look, I get seven hundred and
4 some dollars a month. I can't move out of here
5 in 30 days."

6 COMM. CRENSHAW: So, did you, just
7 out of curiosity, relay that information to
8 Mr. Hall about, well, now she wants to put you
9 out because you're working on the --

10 MR. BELL: Yes, yes.

11 COMM. CRENSHAW: -- car, which is
12 against the lease?

13 MR. BELL: Yes, all of that, all of
14 that. Mr. Hall -- I talked to Mr. Hall about all

15 of this, yes, I did. As a matter of fact, I --

16 COMM. CRENSHAW: Have you contacted
17 your case manager with Section 8?

18 MR. BELL: I talked to her. I got a
19 conversation with her, talked to her, told her
20 about it. She told me straight out -- and I've
21 got it here. You can hear it for yourself if you
22 want to. Matter of fact, let me let you hear it.

23 COMM. BAYNARD: Mr. Bell, in your

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1 request for appeal, do you have all of that
2 information in there with the tapes and
3 additional pertinent information regarding this
4 case?

5 MR. BELL: Do I have what?

6 COMM. BAYNARD: Did you send it in
7 with your --

8 MR. BELL: No, because I couldn't
9 afford to. What they wanted me to do is they
10 wanted me to take all of the information that's
11 on this tape and then put it on a DVD. See, I
12 do -- I took creative writing and stuff as an
13 outlet for me, and I write a lot of poetry and
14 stuff like that, so I've got recordings of poems
15 and all kinds of stuff on this thing.

16 So, what they wanted to do was to take
17 this recorder, tell me how much storage space is
18 on it, and tell me how much it would charge for
19 the number of disks that I needed in order to get
20 it transferred.

21 COMM. BAYNARD: But if you want us to
22 consider your additional evidence, then it has to
23 come before us.

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1 MR. BELL: I know. I know. And
2 that's exactly --

3 COMM. BAYNARD: This is the last
4 stop.

5 MR. BELL: That's exactly why I'm
6 here. That's exactly why I came here, because I
7 couldn't afford to have tapes made with the
8 income I've got.

9 (Phone rang.)

10 MR. BELL: This is -- can I take
11 this? This my LifeSpring counselor.

12 (Discussion off the record.)

13 MR. BELL: Sorry about that. That
14 was my counselor from LifeSpring. He was
15 checking with me, trying to see what I'm doing

16 and where I'm at. And I told him I had to come
17 down here today to do something about this
18 situation, because this lady put me in a
19 situation if I had lost my housing, I would be --
20 I would be in a bad, bad situation.

21 And I believe she did it because she's
22 just a mean-spirited person. I told Mr. Beatty
23 that. Mr. Beatty agreed with me, and I've got a

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1 conversation on this recorder in here, and if you
2 want to hear these recordings, I have all of
3 these recordings right here. So, I can let
4 everybody hear it, hear everything I'm talking
5 about. It's just a matter of sitting down -- and
6 I even got a --

7 COMM. BAYNARD: Well, Mr. Bell, this
8 is actually not a hearing.

9 MR. BELL: Well, see, I couldn't --
10 just like a told Judge Allen, when I wrote her
11 that letter, they put me in a situation where I
12 had to move; okay? I'm working with a limited
13 amount of money, 700 bucks a month.

14 I had to find a place, get all of my
15 belongings out of this place, pay my prorated
16 rent on this place for the days I stayed there,

17 get this place painted and ready to move out,
18 find another place, go over there, get that place
19 ready to move in, because I didn't have a
20 deposit, and come up with the money for the
21 prorated rent for the rest of the month to occupy
22 that place.

23 And all of this here, I didn't have no

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1 money or time to do anything but get into this
2 place. By the time I finally did get in and
3 settled and get everybody to help me, I didn't
4 have no money for no tapes and duplicating no
5 information. I've got the recorder. I've got
6 stuff on my own that's here.

7 Everything you see has got some relevant
8 informa -- and on this one, it's some information
9 about one of the witnesses telling me what the
10 investigator told her, which was -- well, she
11 only asked her two questions, according to the
12 witness, and you can hear that, too, if you want
13 to, right now.

14 But she said that the investigator only
15 asked her two questions, and that was: Has she
16 ever seen me at the property since I've got put

17 out of the place? And I told her that I didn't
18 get put out. I moved, but I feel like I was
19 forced to have to move, because there was no
20 reason for me to have to vacate my place after
21 being there for eight years, other than for this
22 one incident.
23 I ain't had no problems with nobody there.

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1 The only problem I've had is with her. Yeah, I
2 have been late a few times on my rent, which I
3 guarantee you, everybody there has, too. Now, I
4 don't understand why she's trying to put me out
5 for working on my cars when everybody works on
6 their car. I've got the maintenance man -- even
7 you can hear him saying that he thought it was
8 okay. And he worked for the complex.
9 So, I mean I don't understand what she's
10 doing, and I don't think that working on my own
11 car should be enough of a reason to cause me to
12 have to be uprooted and then spend every dime
13 I've got trying to get situated, and now the
14 bottom is almost falling out of that, too. And
15 then every opportunity you get, you cause me to
16 have to spend some extra money, because you know
17 that with my limited income, if I spend \$45 twice

18 a month on tow fees, that kills the rent or the
19 utility money. I mean how much can you get out
20 of \$721?

21 COMM. BAYNARD: But any additional
22 evidence needs to be part of the appeal.

23 MR. BELL: Well, what I'm saying is,

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1 after talking to the Judge and explaining to the
2 Judge -- I've got a copy of the letter here that
3 I wrote to the Judge, asking her for more time;
4 okay? They gave me an extension when she gave me
5 the -- well, she granted the appeal that gave me
6 up until the 10th. Now, when they granted the
7 appeal, it was probably somewhere around -- I
8 don't know exactly when it was, but it was -- it
9 was probably a week before that.

10 COMM. BAYNARD: Well, you still have
11 a couple of weeks to send it in.

12 MR. BELL: Well, I mean if that's the
13 case, that is not a problem, because everything
14 that I've got on here --

15 COMM. CRENSHAW: She's saying no.

16 COMM. BAYNARD: Oh, really?

17 COMM. CRENSHAW: Which month are you

18 speaking of? 10th of what, October? 10th of
19 September? 10th of --

20 MR. BELL: This -- this last month.

21 COMM. CRENSHAW: 10th of September?

22 MR. BELL: No --

23 COMM. BLACKBURN: No, October.

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1 MR. BELL: -- October.

2 COMM. CRENSHAW: Okay.

3 MR. BELL: Yeah, because she told --
4 that was my deadline.

5 COMM. CRENSHAW: I gotcha.

6 MR. BELL: And I could not come up
7 with the money to get these disks, okay, and so,
8 I called her. I said, "Look, I can't come up
9 with the money to turn all -- get all of these
10 recordings on the disks to send to you all, and
11 if I send you my recordings, you all ain't going
12 to send them back."

13 COMM. BAYNARD: I might have misspoke
14 there, so we'll find out exactly, you know, how
15 much time you have to send --

16 MR. BELL: Well, if I've got some
17 time, I wouldn't have had to drove down here in
18 the first place. The only reason I drove --

19 MS. HAYNES: Mr. Bell, let me --
20 MR. BELL: Okay. May I say this one
21 thing?
22 COMM. BLACKBURN: Mr. Bell, I think
23 we've been generous in our time for you to make

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1 your statement before us. This is -- as
2 Comm. Baynard has said, this is not a hearing.
3 MR. BELL: Okay.
4 COMM. BLACKBURN: You're not sworn
5 in, and the information that you're presenting
6 does not go into the record unless we are
7 conducting a hearing. So, at this point, the --
8 you may be past -- yet again, past a deadline.
9 Deadlines are deadlines.
10 Ms. Haynes.
11 MS. HAYNES: So, there's two issues
12 regarding this. First and foremost, typically
13 when a person files an appeal, the Commission
14 gives them a period of time in which they must
15 provide that information, so we can timely
16 provide it to you. So, at this point, today is
17 the last day information can be provided for the
18 appeal.

19 If there's any additional documentation at
20 that Mr. Bell would like to present to you for
21 you to have a tangible copy of, that can occur;
22 however, Mr. Bell will have to pay, pursuant to
23 state statute, the ten cents per page for copies.

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1 So, he can provide additional --

2 MR. BELL: I've got 14 cent in my
3 pocket.

4 MS. HAYNES: -- information to you,
5 but it would have to be under those
6 circumstances. Otherwise, he would just have to
7 orally present it. Does that make sense?

8 MR. BELL: That's what the Judge told
9 me. That's why I -- the only reason that I'm
10 here, the only reason I drove from New Albany, is
11 because I knew that I couldn't get this
12 information to you all no other way than to bring
13 it in here and let you hear it, or to bring it in
14 here and pass these copies out, because I
15 couldn't get them copied and faxed and sent to
16 all of you all, and I figured that if I came in
17 here, here it is, you can hear it just like I
18 did.

19 And if you've got any questions about it,

20 then you can if ask me what I said and what they
21 said and -- or where we were when we said it or
22 whatever, and -- or I'll even get the person on
23 the phone and remind them, "Do you remember

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1 having this conversation with me."

2 COMM. BLACKBURN: If today is the
3 last day that you can present to us, in any form,
4 the information that you want us to hear, give me
5 an estimate of how much time you think that will
6 require. I think that the Commissioners need to
7 decide whether or not to allow the information to
8 come in today. It certainly sounds like a
9 hardship case.

10 COMM. CRENSHAW: Yeah.

11 COMM. BLACKBURN: And I'm willing to
12 stay here.

13 COMM. CRENSHAW: Yeah, I don't mind.
14 I don't mind, because he can't afford it.

15 May I ask, if you don't mind, what is the
16 nature of your disability?

17 MR. BELL: You know something --

18 COMM. CRENSHAW: And you --

19 MR. BELL: -- I'm going to say this:

20 I've been dealing with this since '94 or '5, and
21 I honestly don't know what's wrong with me. All
22 I know is that they have told me five or six
23 different labels. They told me it was general

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1 anxiety disorder, then they told me something
2 about some homicidal ideations, then they told me
3 something about some schizophrenia, then they
4 told me something about some obsessive/compulsive
5 disorder. I mean they ended up calling it like
6 five or six different things. I don't know
7 what's wrong with me.

8 COMM. CRENSHAW: Okay.

9 MR. BELL: I have no idea. All I
10 know is that certain things can happen and --

11 COMM. CRENSHAW: Certain triggers?

12 MR. BELL: -- just, you know --

13 COMM. CRENSHAW: So, since day one --

14 MR. BELL: -- that's about all I can
15 go by.

16 COMM. CRENSHAW: Since day one at
17 this apartment complex, you've had problems with
18 this lady since day one?

19 MR. BELL: Well, not day one.

20 COMM. CRENSHAW: Okay.

21 MR. BELL: I didn't start having
22 problems with her until 2008. We moved in
23 in 2005, and my ex-wife was selling Avon, and she

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1 had some kind of issue with this woman, and I
2 remember my ex coming back to me talking about
3 she called the lady out of her name [sic], which
4 was a slanderous "B" word. Now, from that point,
5 that woman would provoke my ex.

6 Now, a couple of years later, my ex
7 decided that she wanted to get with the choir
8 director, and me and her moved on about our
9 separate ways. Now, when that happened,
10 everything I did from that point on, it was
11 magnified. Even before my ex left, my ex had
12 Paget's disease, and her joints, according to the
13 doctor -- well, her bones had little air pockets
14 in them, like osteoporosis or --

15 COMM. CRENSHAW: Uh-huh.

16 MR. BELL: -- something like that.
17 Now, her joints would swell up and her ankles and
18 stuff where it looks like she almost had
19 elephantitis. So, I would back up as close as I
20 could get to the door, help her get out of the

21 car, go into the apartment complex, come back out
22 and get in the car and park it on the lot.
23 Don't you know, this lady tried her best

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1 on five or six different occasions to put me out,
2 and I told her, I said, "Well, ma'am, I cannot
3 lift this woman. I mean what am I supposed to
4 do?" Now, the place that I would park -- regular
5 parking spaces are like this right here.

6 COMM. BLACKBURN: Mr. Bell, I'm
7 sorry; I need to interrupt you. If you want to
8 play conversations for us that you have on
9 recordings, and if that is the more important
10 information for you to provide us, let me suggest
11 that you do that now. I do know that at least
12 one of the Commissioners has appointments beyond
13 this meeting --

14 MR. BELL: Okay.

15 COMM. BLACKBURN: -- and cannot stay
16 very long.

17 MR. BELL: Well, see, like I told you
18 when I came here, I don't know what this -- how
19 to do this. The only thing --

20 COMM. BLACKBURN: I'll telling you
21 right now. If you want us to hear something,

22 play it now, and --

23 COMM. RAMOS: I have a question,

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1 because I'm not -- I didn't get a chance to read
2 the case, so I'm trying to figure out what is the
3 question. He's been racially discriminated
4 because of the housing or --

5 CHAIRMAN CARTER: That's what I
6 understand.

7 COMM. RAMOS: I mean I'm trying to
8 figure it out, and I can't make any
9 recommendations right now.

10 MS. HAYNES: Excuse me, Mr. Bell.

11 MR. BELL: Okay.

12 MS. HAYNES: The Notice of Finding in
13 this case was issued on September 9th, 2014, and
14 this case is regarding allegations of
15 discrimination on the basis of race and
16 disability, in violation of the Indiana Fair
17 Housing Act, the Indiana Civil Rights Law, and
18 Title 8.

19 Specifically, the issue pending before the
20 Commission, and specifically Comm. Baynard, in a
21 way, is whether Respondent subjected Complainant

22 to different terms and conditions because of his
23 race and disability.

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1 In order to prevail on such a complaint,
2 Complainant must show that he is a member of a
3 protected class; Respondent knew, or should have
4 known, Complainant was disabled; Complainant was
5 qualified, ready, willing and able to remain as a
6 tenant in accordance with Respondent's reasonable
7 terms and conditions; Complainant was subjected
8 to an adverse action; and Respondent treated
9 similarly situated nondisabled tenants or tenants
10 of another race more favorably under similar
11 circumstances.

12 So, it would be --

13 COMM. BLACKBURN: Well, the question
14 remains: Is this a race case or --

15 MS. HAYNES: Race and disability.

16 COMM. BLACKBURN: Race and
17 disability?

18 MS. HAYNES: Correct. And in a case
19 of that nature, there are a few options; namely,
20 no discrimination at all, or discrimination on
21 one of the bases, or discrimination on both.

22 COMM. RAMOS: And the ALJ has already

23 made a recommendation on this?

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1 COMM. BAYNARD: Well, it's --

2 MS. HAYNES: In my role as Deputy

3 Director --

4 COMM. RAMOS: Okay.

5 MS. HAYNES: -- I made a decision on

6 this matter and found that there was no

7 reasonable cause, because no evidence that's been

8 submitted or uncovered shows that Respondent

9 treated Complainant less favorably than similarly

10 situated tenants, and the rest of the information

11 is contained in the Notice of Finding. So,

12 unless you would like me to read it into the

13 record, I'll leave it reserved in the file.

14 MR. BELL: Can I say something to

15 that? Okay. Now --

16 COMM. RAMOS: Sure.

17 COMM. BLACKBURN: I think it would be

18 appropriate.

19 COMM. CRENSHAW: Let him --

20 COMM. BLACKBURN: And I need to ask

21 Ms. Haynes if it is appropriate if we swear

22 Mr. --

1 COMM. BLACKBURN: -- Bell in, please,
2 because I don't know that public comment is
3 equivalent in its weight to testimony.

4 MS. HAYNES: Let me interject.

5 COMM. BLACKBURN: Yes.

6 MS. HAYNES: Traditionally, we do not
7 hold oral arguments on appeals. Traditionally
8 what occurs is the individual is given 15 days to
9 file their appeal, or extensions if permitted by
10 the Administrative Law Judge, and they submit
11 their evidence in a written form, and then public
12 comment is given in the event that they want to
13 speak on that appeal to elaborate. But we do not
14 traditionally allow oral arguments, and to my
15 knowledge, this would be the only one that we
16 would have allowed, in the event that the
17 Commission chooses to do so.

18 COMM. BLACKBURN: I think it's truly
19 not a decision that I want singularly to make.

20 Commissioners, what is your desire?

21 COMM. CRENSHAW: I -- I think if he's
22 expressing an undue financial hardship of getting
23 the information -- I'm speaking upon myself -- I

1 think it might be in my best interest as one of
2 the Commissioners on this board to listen to it,
3 because I don't want to be in a position where we
4 denied some -- I denied someone in a financial
5 undue hardship an opportunity to present their
6 evidence.

7 COMM. GIDNEY: Yes, I agree with the
8 price of the hardship and the timing.

9 COMM. BAYNARD: I think that we
10 should stick to our standard of submitting
11 evidence to the office, and especially the
12 appeals cases, and all of the evidence is thereby
13 looked at by the Commissioner who's looking at
14 this appeal, and this would be held to just
15 public comment, as opposed to allowing oral --
16 part of an oral argument, which is the only
17 party.

18 COMM. RAMOS: Can we grant the time,
19 instead of the Commission, since he has
20 information, to view that back with the
21 investigator, and I guess that would be a remand
22 at that point, so -- and I'm not sure -- you
23 haven't had a chance to look through the --

1 COMM. BAYNARD: No, I've just -- I'm
2 seeing it for the first time.

3 COMM. RAMOS: Yeah.

4 MR. BELL: Well, see, I had mentioned
5 to the Judge that part of the reason why I'm here
6 today is because the names of the people that I
7 gave the investigator, she only talked to one of
8 them, and I wrote a letter to the Judge, and the
9 Judge gave me additional time to contact those
10 people and to see if I could make arrangement.

11 But in the process of me trying to contact
12 those people, the apartment complex decided that
13 they wanted to issue a criminal trespass against
14 me to keep me off of the property, even though I
15 wasn't put out of the property. I mean when I
16 left, had I lost -- had I been put out of the
17 place, I would have lost my housing, too.

18 On one of these recordings, you'll hear my
19 case manager, Judy Cutsinger, from the Housing
20 Authority tell me that if the apartment complex
21 elects not to accept my money, I will
22 automatically lose my housing.

23 COMM. CRENSHAW: Let's stop for a

1 second, if you don't mind.

2 Comm. Carter, what do you think?

3 COMM. BLACKBURN: Comm. Carter, your
4 feelings?

5 CHAIRMAN CARTER: Well, I was
6 wondering if it would be possible to take those
7 audio devices over to the office and copy them
8 onto our hard drive.

9 MR. BELL: We can do that. I mean
10 if --

11 COMM. RAMOS: Well, we --

12 CHAIRMAN CARTER: What I'm asking --

13 MR. BELL: I don't know how to do it,
14 but I mean if you all --

15 CHAIRMAN CARTER: Well, somebody
16 must --

17 MR. BELL: Well, see, there's a lot
18 of stuff on here that isn't --

19 CHAIRMAN CARTER: That isn't.

20 MR. BELL: -- you know, like poems
21 and all kinds of stuff that I'd be dreaming up
22 and coming up with as far as --

23 CHAIRMAN CARTER: But otherwise, I

1 don't -- I'm reluctant to stay here and listen to
2 a continuing litany of complaints. I mean I
3 understand that you -- you were -- you feel like
4 you were badly treated, and you have many
5 examples of that.

6 MS. HAYNES: And as Comm. Ramos
7 mentioned, this is a traditional appeal. As
8 such, you have your three options. Your option
9 would be to affirm the Deputy Director's
10 decision, to remand the case back to the
11 Commission for further investigation, or to
12 reverse the finding.

13 So, those three options remain, but, of
14 course, as the case was just assigned today, it
15 would probably be -- or possibly be imprudent to
16 make a decision as of now, but that is your
17 prerogative to do so if you would like.

18 MR. BELL: See, I don't have a lot --

19 COMM. BLACKBURN: And what -- excuse
20 me.

21 MR. BELL: -- of audio to share
22 today --

23 COMM. BLACKBURN: Excuse me,

1 Mr. Bell.

2 And the information that he's seeking to
3 provide today, is that in addition to some
4 information that you've already received --

5 MR. BELL: They've not received
6 anything.

7 COMM. BLACKBURN: -- or -- they've
8 not received anything?

9 MR. BELL: Anything.

10 COMM. BLACKBURN: Until today --

11 MR. BELL: Until today.

12 COMM. BLACKBURN: -- the last day?

13 MR. BELL: Because this is the only
14 opportunity I've had to present it because of
15 financial means, getting from one place to the
16 other, renting a truck, with seven hundred
17 dollars and something a month. I've had to move
18 within the last 60 days.

19 COMM. BLACKBURN: I understand.

20 MR. BELL: And I've had to get out of
21 that place and pay all of the outstanding final
22 utility bills all out of \$700, which I didn't
23 have.

1 MS. HAYNES: And for purposes --

2 MR. BELL: And benevolence committees

3 and churches had to help me do that; otherwise,

4 I'd be homeless now.

5 COMM. BLACKBURN: Thank you.

6 MS. HAYNES: And for purposes of

7 clarification, as per the Court's final

8 determinations; namely, Notices of Finding are

9 made based on the evidence that's in the file,

10 and as parties have the right to provide new and

11 additional evidence on an appeal, I at this time

12 am unable to say what was in the file at this

13 time versus being presented now, but there was

14 evidence in the file to make a determination.

15 COMM. BLACKBURN: The question that I

16 would raise now, then, before the Commissioners

17 is whether or not you want to now hear any

18 portion of what Mr. Bell is bringing, or would

19 you instead like to remand the case for further

20 investigation, which would then set the clock

21 going again for --

22 COMM. BAYNARD: Well, basically, if

23 I'm not out of order here, it would be up to me

1 to make the recommendation to remand or to
2 uphold --

3 COMM. BLACKBURN: And you're right.

4 COMM. BAYNARD: -- or sustain, and
5 I've not read case yet.

6 COMM. BLACKBURN: Okay.

7 COMM. BAYNARD: So -- and with the
8 additional evidence I believe I've heard so far,
9 you know, that gives me an opportunity to add to
10 this whatever else is in the appeal request.

11 MR. BELL: Well, see, there's nothing
12 in the appeal, because, like I said, she never
13 contacted the witnesses. She only contacted one
14 person and asked that person two questions. I
15 was dissatisfied with the investigator's process,
16 mentioned it to Jonathan Gordon, mentioned it to
17 Ms. Bernice, mentioned it to Farrell and a bunch
18 of other people, and then even mentioned it to
19 the Judge herself, that I didn't think the
20 investigator did what I would --

21 COMM. BAYNARD: That's part of your
22 appeal?

23 MR. BELL: That's -- well, that's why

1 I wrote a letter to the Judge, and I told the
2 Judge that because I didn't feel like they had
3 any information that came from me, I needed a
4 chance to present it, and she told me to come
5 today. That's why I'm here. Because otherwise,
6 you don't have nothing to prove anything I've
7 told you, other than the fact that I told you
8 what I told you.

9 But these recordings are conversations
10 that almost say word for word what I wrote in
11 those documents, and you'll hear what I wrote in
12 those documents about what they said, how they
13 said it, what they put me into, right here on
14 these tapes. Almost word for word, because I
15 didn't take it and use my words. I said what
16 they said, what I said, and you can hear it for
17 yourself.

18 MS. HAYNES: And in my role as
19 General Counsel, I'd like to remind the
20 Commission, as per the course, you have your
21 usual determinations of affirming, remanding or
22 reversing the decision, but traditionally, upon
23 the day the case is assigned, it is tradition to

1 take the matter under advisement until you make
2 your determination, but, of course, that decision
3 is up to you.

4 COMM. BLACKBURN: Mr. Baynard, do you
5 feel prepared at this point to make a
6 recommendation, or do you want to hear the tapes?

7 COMM. BAYNARD: At this point I can't
8 make a recommendation on remanding or upholding
9 at all, because I haven't read the case, but I
10 feel that he has -- he feels firmly about what
11 he's presented --

12 MR. BELL: Can you pass this around?
13 These is what I --

14 COMM. BAYNARD: -- and I --

15 MR. BELL: I wrote this on --

16 COMM. GIDNEY: Hold on, hold on, hold
17 on. He can't pass it because he's transcribing.

18 MR. BELL: Okay.

19 COMM. GIDNEY: Yeah.

20 MR. BELL: Okay. I'm sorry.

21 COMM. BAYNARD: I feel as though I've
22 heard enough information already, that this adds
23 to whatever else is in this case, and that I need

1 to read the case in order to find out, you know,

2 which way to proceed with it. But -- I don't
3 know about the rest of the Commissioners, but I
4 really don't have the time to -- if it's going to
5 take a lot of time, and it's taken a lot of time
6 so far. I don't have the time to listen to hours
7 of tapes.

8 MR. BELL: It's not -- what I have --
9 okay. That's why I wanted to pass this around.
10 These are some of the things that I'm saying and
11 put in -- that I put -- when I filed that
12 complaint, I filed the complaint because I felt
13 that certain things were said to me, and I quoted
14 exactly --

15 COMM. CRENSHAW: Mr. Bell.

16 COMM. BAYNARD: If this is --

17 COMM. CRENSHAW: This is what you
18 need to do: Play the tape now --

19 MR. BELL: Okay.

20 COMM. CRENSHAW: -- 15 minutes, so
21 that he can hear what he needs to hear --

22 MR. BELL: Okay. I hope it --

23 COMM. CRENSHAW: -- because we don't

1 have a lot of time.

2 MR. BELL: -- plays loud enough,

3 because this thing is not a --

4 COMM. CRENSHAW: Just put it up to
5 the microphone.

6 MR. BELL: Okay. Let me get -- let
7 me find my --

8 COMM. RAMOS: Madam Chair, I have to
9 excuse. I have a meeting that I need to be at.

10 I'm sorry, Mr. Bell, that I'm not going to
11 be able to participate in this, but I'll follow
12 up with the Commission for any parts that I need
13 to.

14 COMM. BLACKBURN: Okay. Thank you.

15 MS. HAYNES: Excuse me, Mr. Bell.

16 MR. BELL: Okay.

17 MS. HAYNES: And one thing I would
18 like to remind the Commission is, again, you have
19 the purview to -- specifically Comm. Baynard --
20 to take that matter under advisement and affirm,
21 remand or reverse. And one thing I would like to
22 remind the Commission, that in the event of a
23 decision to remand, the additional information

1 that Mr. Bell is presenting today can be provided

2 to the investigator, and then another

3 determination could be issued.

4 So, again, the Commission has the
5 prerogative to hear additional information if it
6 would like, but the Commission, and specifically
7 Comm. Baynard, can take this matter under
8 advisement and make a determination, including
9 the determination to remand.

10 CHAIRMAN CARTER: I have a question
11 to that. Can Comm. Baynard say that in the light
12 of what Mr. Bell has said today, that he is
13 inclined to remand it for further investigation,
14 and then Mr. Bell go over to the office and
15 transcribe, with somebody's assistance who knows
16 how do it, the pertinent information for the
17 investigator?

18 MS. HAYNES: That's not the
19 traditional process.

20 CHAIRMAN CARTER: Well --

21 MS. HAYNES: The traditional process
22 would be the Commissioner would take the matter
23 under advisement, make a determination as to what

1 they want to do with it. In the event that that
2 decision is a remand, I would have to issue a

3 Notice indicating that, letting the parties know
4 that there's additional time to provide
5 information, and that's traditionally when that
6 process would take place. If we were to follow
7 that process, that would be something completely
8 different than what the Commission has done --

9 CHAIRMAN CARTER: Okay. Well --

10 MS. HAYNES: -- and it would be
11 something that has not traditionally been
12 afforded other complainants.

13 CHAIRMAN CARTER: In that case,
14 tradition actually creates a catch-22, because
15 today is the time limit, and that information is
16 there, and I think if there's a financial
17 limitation to providing that in some other
18 format --

19 MS. HAYNES: That's not a hundred
20 percent accurate.

21 CHAIRMAN CARTER: All right.

22 MS. HAYNES: The last day to provide
23 information for the appeal would be today, but in

1 the event that a remand is issued, the
2 Complainant would be given a period of time, as
3 well as the Respondent, to provide any additional

4 information that they see fit to.

5 CHAIRMAN CARTER: And given the
6 geographical distance and the financial
7 limitations, how is that information to be
8 presented?

9 MS. HAYNES: I can't speak to that,
10 Commissioner. All I can say is --

11 CHAIRMAN CARTER: Which is why I'm
12 trying to solve that --

13 MS. HAYNES: Right.

14 CHAIRMAN CARTER: -- technological
15 problem.

16 COMM. BAYNARD: Commissioner, could
17 the Complainant not copy the tapes and then send
18 them to the office, and/or make copies of
19 additional paperwork that is -- that he's wanting
20 to present --

21 CHAIRMAN CARTER: Well, I think --

22 COMM. BAYNARD: -- and send them --

23 CHAIRMAN CARTER: -- Mr. Bell has

1 already --

2 COMM. BAYNARD: -- up to the office?

3 CHAIRMAN CARTER: -- said that he

4 can't afford to do that.

5 COMM. CRENSHAW: He doesn't have --

6 he can't afford it.

7 COMM. BAYNARD: Well, I understand

8 that, but --

9 COMM. CRENSHAW: He doesn't have it.

10 MR. BELL: -- 700 bucks -- \$721 is

11 not a lot to pay car insurance, personal hygiene

12 items, accessories and food, and it -- without

13 the subsidized help, well, you'd have probably

14 been seeing me on the news a long time ago, a

15 long time ago, a long time ago. So -- I mean a

16 long, long time ago.

17 COMM. BAYNARD: Yeah, I don't know

18 what it would cost to have that transferred over

19 to --

20 MR. BELL: Well, they told me that --

21 they told me at Walgreen's they would have to

22 send this out, and it was \$29 a disk, and it

23 would probably take about four disks to record

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1 the information on this one, plus another three

2 or four disks for each of the other ones. Now, I

3 figure a total of nine disks at \$29 a pop, that's

4 300 bucks.

5 I don't have it. That's half of my check.
6 I can't pay the rent, I can't pay Duke Energy, I
7 can't pay my phone, I can't pay car insurance, I
8 can't pay nothing. Matter of fact, I'd get put
9 out if I did that, because I wouldn't have enough
10 to do it. And then I'd have to wait another 30
11 days just to pay -- to get caught up with what I
12 missed to make that happen. And then I'd have to
13 deal with the late fees of not being able to pay
14 it on time because I had to make that happen.
15 It's -- it wouldn't -- it ain't going to work
16 like that.

17 Well, let me let you all hear this here.
18 Let me see if I can get this thing -- please bear
19 with me, because everything that I put in that
20 complaint, I took almost -- I took almost word
21 for word -- I can't hardly see, either; that's
22 one of my problems, too -- I took word for word
23 what they said and what I said, and told the

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1 commission how I believe I was violated. That
2 way, when you hear these, everything I allege
3 that was done to me in that complaint, you'll
4 hear it being said if you listen to these.

5 COMM. BAYNARD: Can you edit --
6 MR. BELL: And if --
7 COMM. BAYNARD: Can you edit that so
8 that we only listen to those conversations, as
9 opposed to the other things that's on the tape?

10 MR. BELL: That's what -- that's what
11 I've got here. I went through this one and I
12 picked out certain things, and the number, where
13 I can go specifically to that and let you listen
14 to it, and I can tell you what it's going to say
15 and, you know, what we were talking about at the
16 time.

17 CHAIRMAN CARTER: Is that a page and
18 a half of what you transcribed?

19 MR. BELL: Yeah, this is -- do you
20 want to --

21 CHAIRMAN CARTER: Can we copy that at
22 this office?

23 COMM. BAYNARD: He says it's the

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1 pages that --

2 CHAIRMAN CARTER: Ten cents? I can
3 come up with twenty cents.

4 MR. BELL: Well, I've got ten of it.

5 I think that's about it. I had to put my last

6 \$30 in the tank to get down here, but I just had
7 to do something, because if I ever lost my
8 housing, man, life would have been upside down
9 for me right now, and it'd have been upside down
10 for a lot of other folks, too.

11 COMM. BAYNARD: But isn't it correct
12 that you have other housing now?

13 MR. BELL: Huh?

14 COMM. BAYNARD: Isn't it correct that
15 you have other housing now?

16 MR. BELL: Yeah, I had to move back.
17 My landlord, in order to make it possible for me
18 to move into the place that I've got, he lowered
19 my rent a hundred dollars a month.

20 COMM. BAYNARD: Okay.

21 MR. BELL: That's unprecedented.
22 This man knocked off a hundred dollars a month
23 off my rent. He caused himself to lose twelve

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1 hundred dollars to rent to me, to keep me from
2 being homeless.

3 COMM. BAYNARD: And put you --

4 MR. BELL: And then allowed me to
5 work off my deposit by painting his apartment.

6 COMM. BAYNARD: Mr. Bell, could you
7 get to that, the type, please?

8 MR. BELL: Yes, I'm --

9 COMM. GIDNEY: Did you have a point
10 of order that you wanted to --

11 COMM. BLACKBURN: If he'd started
12 playing it 15 minutes ago when I told him to,
13 we'd be --

14 MR. BELL: Well, I mean I'm trying to
15 get this thing to come on. This is all brand new
16 to me, too, because I had this thing -- I
17 borrowed it from a friend of mine.

18 MS. HAYNES: And one thing I would
19 like to remind the Commission is that
20 traditionally and per statute, parties who want
21 copies from a state agency are required to pay
22 ten cents a page, so that is not a suggestion
23 from the Commission, that is by state statute.

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1 And since every other complainant and respondent
2 has paid their ten cents per page or provided
3 their evidence, any form that the Commission can
4 hear it, it could be seen as unorthodox to permit
5 a deviation of that in this case.

6 CHAIRMAN CARTER: Including providing

7 twenty cents? I mean traditionally, they are all

8 kinds of things we could throw at tradition.

9 MS. HAYNES: Because it could

10 appear --

11 COMM. BLACKBURN: Mr. Bell, are you

12 going to play the tape?

13 MR. BELL: Ma'am, I'm trying to --

14 I've got a lot of information on here. I'm going

15 to no. 24 right now. That what I'm clicking to

16 now. I'm doing this as fast as I can.

17 MS. HAYNES: And again, it could

18 appear unfair to --

19 COMM. BLACKBURN: Others.

20 MS. HAYNES: -- have this

21 Complainant, who were unable to do that -- a

22 deviation to that.

23 (Tape played.)

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1 "Ms. Sharon, this is Lloyd. I

2 need to find out how much my total amount

3 is. I'm still trying to get these folks

4 to help me if they can, and I mean I know

5 you wrote me a letter telling me that you

6 sent it to the attorney and all of that.

7 "Well, I won't know now until
8 it's in the court.

9 "Say that again.

10 "I won't know now until it's in
11 court --

12 "What do you mean?

13 "-- how much it will be.

14 "Well, the outstanding balance
15 that I have right now is what?

16 "I'm not -- I'm not accepting any
17 more money from you, Mr. Bell, until
18 court.

19 "You're not going to accept any
20 money from me until court?

21 "I'm not accepting any more
22 money, that's right. I mean I've
23 submitted it to the attorney, so it's a

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1 court thing now.

2 "Well, Ms. Sharon, why would you
3 do that?

4 "Well, because you didn't pay
5 your rent.

6 "Well, I mean I explained to
7 you -- I explained to you, and you said --

8 "I know you explained it to me,
9 but Mr. Beatty said I had to send it to
10 the attorney.

11 "Hmm.

12 "I can't treat you like -- I have
13 to treat you like everyone else.

14 "Okay. Well, then I guess I'm
15 going to have to find some legal help, I
16 guess.

17 "Yeah, I guess.

18 "All right. Well, thanks.

19 "Uh-huh."

20 (Tape stopped.)

21 MR. BELL: This was Tuesday before --
22 the day after I was supposed to turn it in, and
23 they was closed. Okay. This is --

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1 (Discussion off the record.)

2 (Tape played.)

3 "Okay. The very day that I was
4 put out on the street, she sent my file to
5 the attorney's office, and then I find out
6 later on --"

7 (Tape stopped.)

8 MR. BELL: This is a conversation
9 with the regional director, Mr. Joe Beatty.

10 (Tape played.)

11 "My cars was the only cars that's
12 tagged, and there's two cars that are
13 within two stalls of my car that -- one is
14 clearly on flat, don't have a tag on it,
15 and they did not put a sticker or tag or
16 anything on that. They purposely singled
17 me out, and I asked the maintenance man,
18 'well, look, why wouldn't they put
19 anything on this car?' And the maintenance
20 man said that he thought that she might
21 like me. I said, 'well, if she likes me,
22 then she -- I wish I could get her to
23 stop, because if she likes me, I'd hate to

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1 have her dislike me.

2 "All right."

3 (Tape stopped.)

4 MR. BELL: This is Ms. Cutsinger.

5 (Tape played.)

6 "-- because I can't pay the money
7 that I owe, and I don't really know how
8 much I owe. There are people that's going

9 to help me, but they don't know what to
10 help me with, because now there's no
11 amount, because she sent it to the
12 attorney.

13 "Well, did they give you a
14 balance?

15 "I just got off the phone with --
16 I just got off the phone -- I just got
17 off the phone with Ms. Sharon, probably
18 maybe five minutes ago, and this lady told
19 me that she could not accept any money
20 from me because the file had been sent to
21 the attorney's office, and then I asked
22 her, I said, 'well, why did you do that?'
23 And then she said, 'well, I talked to you

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1 a few days ago.' I said, 'well, you did
2 talk to me a few days ago, but you know
3 that some of these agencies and stuff,
4 they need to verify a lot of different
5 things. They don't just take my word for
6 it. They have to check these things out,
7 and then they have to talk to other people
8 to get permission to authorize those

9 funds. I just can't just go in and pick
10 it up on the spot like that, even though I
11 wish I could. I mean why did you do
12 that?' And she said that she had talked
13 to Mr. Beatty, and Mr. Beatty told her to
14 send my file to the attorney's office. I
15 said, 'I don't believe that.' But anyway,
16 that's what she told me, and then after
17 she told me that, I said, 'well, the only
18 thing that I can do is to call
19 Ms. Cutsinger and talk to her,' because
20 I've got housing, and I don't want to wind
21 up losing my housing because of this
22 lady's -- whatever fixation she's got on
23 me. I mean she -- it's like she's got me

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1 singled out. And this is not the first
2 time I've mentioned this to you,
3 Ms. Cutsinger. I've shown you things
4 where she charged me \$25 for using my
5 neighbor's lawn mower to cut my grass,
6 stuff like that, you know. And she's --
7 every time I park a car on the lot, she
8 will tag my car, and only my car. There
9 could be five cars out there in the

10 parking lot and all of them can be broke
11 down, and she will not put a tag on no one
12 else's car except for mine. I've even
13 pointed it out to the maintenance man when
14 it happens, 'hey, guy, look here. Why is
15 there not tags on this car?' 'Well, I
16 don't know. They didn't ask us to tag
17 them. Well, what about this other car
18 right here?' 'Well, we're not supposed to
19 tag that one either.' I said, 'you mean
20 to tell me that the only cars that they
21 asked you tag were my cars?' My car has
22 proper tags, current tags, and they're
23 insured, so why would she mess with my

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1 cars that's tagged and insured, and leave
2 a car that's on flat and clearly don't
3 even have a tag, unless she's picking with
4 me?

5 "Well, you know, there's nothing
6 I can do about it. She sent the file to
7 the attorney?

8 "Yes.

9 "And I'll have to follow up on

10 what they're asking.
11 "Well, what I want to know,
12 Ms. Cutsinger, is -- I know that I'm going
13 to be responsible for all of the cost of
14 whatever it generates, but since she has
15 decided not to take any money from me, as
16 far as I'm concerned, that cancels our
17 contract, and that's --

18 "Well, no, it doesn't with
19 Section 8.

20 "Well, see, that's not -- it's
21 not an eviction. It's not an eviction.

22 "If she allows to pay, pay the
23 balance, you pay, but if they ask you to

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1 vacate the premises and take possession of
2 your unit, you do not have Section 8.

3 "Right, but I don't think they
4 would ask me to do that, especially when
5 I've got the money. I ain't like I'm
6 going to go to court and not have the
7 money.

8 "They can [inaudible] not to take
9 it.

10 "Well, I understand that, but I

11 have not created any situation here that
12 would cause them not to want to take it.
13 This is the first time in eight years that
14 I've lived at this apartment that I've
15 been over five or six days late with my
16 rent. I mean this -- you know, I mean
17 this is not an occurrence where there has
18 been an issue. Now, she has complained
19 about little petty things, like I told her
20 that I had to pull up on the grass to let
21 my wife out of the car because I wasn't
22 strong enough to carry her from the car
23 when her legs and stuff was messing up

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1 with that Paget's disease. I explained
2 that to Mr. Joe Beatty. I don't have a
3 wheelchair. I couldn't carry my wife from
4 the parking lot to the house, so I pulled
5 as close to the door as a could, until I
6 got her in here and got her sitting down,
7 and then I took the car back out to the
8 parking lot. Now, what was I supposed to
9 do? I mean I didn't know of anything else
10 to do. I explained that to him. So,

11 there's nothing else that I've done that
12 would cause them not to allow me to keep
13 my place. So --

14 "Yeah, but you'll have to deal
15 with them and [inaudible].

16 "Well, I mean she hasn't said
17 anything to me. I haven't asked her any
18 questions like that. What I'm going to do
19 is I'm going down to legal aid the first
20 thing Monday morning and I'm going to get
21 some representation, because this is the
22 kind of thing that I do not need to have
23 to deal with myself, or disability

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1 advocates, and see if I can have someone
2 be an advocate for me, because, to me, I
3 just don't understand what's going on, and
4 I feel like I can't deal with this alone.

5 "Right. I understand. Let me
6 know how it turns out, because, you know,
7 I don't understand how that works, so --

8 "Well, you know and I know that I
9 lost my Section 8 before, and I had to
10 call -- deal with -- what was his name,
11 the guy that was the manager down there,

12 the one that got sick, the black guy?
13 "That was Mr. Bates.
14 "Okay. Mr. Bates, and then
15 Mr. Bates [inaudible], and then we had to
16 call John Hall and all -- we've already
17 been through that before.
18 "Right.
19 "And John Hall and the other
20 regional managers, they already are very
21 familiar with me and me losing my
22 Section 8 behind some similar stuff that
23 happened in Alabama, but it happened

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1 because my case manager, Mr. Lay, told me
2 that there was nothing else I needed to do
3 and I could move, and I moved, and then he
4 tells me that he can't transfer the papers
5 because I didn't sign it before I
6 forwarded it out, and I had to come back
7 and sign the papers and then wait on them
8 to forward it out, when I was already
9 there in the office. And then upon losing
10 my Section 8, I talked to John Hall and
11 Mr. Bates and a bunch of other people, and

12 then I finally got it back again. And
13 they are familiar with this, and I'm sure
14 that after going through all of this, they
15 ain't going to let me just lose it like
16 that, especially behind trying to pay some
17 rent that I'm already in the process of
18 getting. I've got people that are willing
19 to help me, but I can't determine when
20 they give it to me, and because I didn't
21 get it soon enough, you won't accept it?
22 No, I don't think they're going to let me
23 lose my --

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1 "Well, they won't accept it;
2 correct?
3 "Well, she told me she cannot or
4 would not accept any more money to me --
5 from me until we went to court.
6 "Okay.
7 "That's my -- because when I go
8 to court, I feel like I can talk and I can
9 explain myself well enough to explain to
10 the judge, 'Your Honor, look at my tenancy
11 record. I mean look at it. I mean I've
12 been here for eight years. I've been late

13 probably a few times, but never more than
14 three, four, five days late.

15 "Right.

16 "You know what I'm saying? I
17 mean this is the first time I've ever been
18 late like this.

19 "[Inaudible.]

20 "Well, I mean I'm going to
21 definitely do that, but I really don't
22 see -- I really don't see how, you know, I
23 can lose my housing behind this, and I

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1 know that there's got to be some kind of
2 disability advocate that will make sure --
3 there's enough disabled folks homeless as
4 it is making another one, and I do have
5 this disability.

6 "I understand. I mean you'll
7 have to [inaudible] have to help you out
8 now [inaudible].

9 "Wait a minute I have to search
10 to find what?

11 "Well, you know, [inaudible] an
12 advocate for you [inaudible] on a housing

13 contract.

14 "Oh, I understand I understand

15 that.

16 "[Inaudible] their contract,

17 basically, and they've got the right to

18 evict you.

19 "And I understand that. I don't

20 have a problem with that, but any

21 reasonable person, if they are reasonable,

22 can see that if you don't have the funds

23 and you've got folks that are willing to

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1 try to help assist you with those funds,

2 and they've got to go through certain

3 things in order to grant and approve those

4 funds, and that takes time, if it's beyond

5 your control, I mean any -- anybody should

6 be able to see that. I don't see them --

7 I don't see them putting me out behind

8 this. I just can't see it.

9 "Well, I don't know. I don't

10 know how that works and I'm not a judge,

11 but let me know how it turns out.

12 "I already know how it's going to

13 turn out, because it's in God's hands and

14 it's going to turn out in my favor, and
15 I'm telling you that right now.
16 "Okay. Well, let me know how it
17 turns out."
18 COMM. BAYNARD: Mr. Bell, would you
19 turn it off?
20 MR. BELL: Huh?
21 COMM. BAYNARD: Would you turn it
22 off, please?
23 MR. BELL: Okay.

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1 (Tape stopped.)
2 COMM. BAYNARD: I think I've heard
3 enough. I have one question, though.
4 MR. BELL: I think there's one other
5 thing that I would like to have you hear, because
6 this is really important, as far as I'm
7 concerned. That 30-day notice, which is the
8 reason that they say that I moved and wasn't
9 forced, this conversation that I want to show
10 you, which is no. --
11 COMM. BAYNARD: What I want to know
12 is, is that -- about the disabled cars. You said
13 they tagged yours and walked past several others?

14 MR. BELL: Yes, sir.
15 COMM. BAYNARD: Now, those several
16 others, do you know who they belonged to? Were
17 they people of color or people --
18 MR. BELL: No.
19 COMM. BAYNARD: -- not of color?
20 MR. BELL: People of noncolor.
21 COMM. BAYNARD: So, you're claiming
22 that you were treated differently based on that?
23 MR. BELL: I'm saying that -- I can't

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1 really say why she did what she did, but I can
2 say that when she was messing with me about my
3 cars, I was the only black person that she was
4 dealing with on that, and it seemed like to me
5 she wouldn't ask the maintenance people to do
6 anything to anybody's car, black, white,
7 whatever, except for me.
8 COMM. BAYNARD: Okay.
9 MR. BELL: Now, why she did that, I
10 have no idea.
11 COMM. BAYNARD: Okay. Which is to
12 say that you was treated differently --
13 MR. BELL: Absolutely, because --
14 COMM. BAYNARD: -- than white

15 residents that had disabled cars?

16 MR. BELL: Yeah, that's right.

17 COMM. BAYNARD: That yours was tagged

18 and theirs were not tagged?

19 MR. BELL: That's right, and

20 theirs --

21 COMM. BAYNARD: And theirs was there

22 longer?

23 MR. BELL: -- were there weeks on

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1 flat.

2 COMM. BAYNARD: Right.

3 MR. BELL: And that one 25 feet from

4 the curb, they passed by that one to get to mine,

5 which is --

6 COMM. BAYNARD: Yes.

7 MR. BELL: -- on the end of the

8 apartment complex, all pumped up, no dents, no

9 rust, no nothing, just a little internal,

10 under-the-hood problem, which I was going to fix

11 in a couple of days, but before I could get a

12 chance to fix it, you want to try to call the tow

13 truck.

14 COMM. BAYNARD: So, theirs was

15 visibly disabled --

16 MR. BELL: Disabled.

17 COMM. BAYNARD: -- and yours was not

18 visibly disabled?

19 MR. BELL: Absolutely.

20 COMM. BAYNARD: Okay.

21 MR. BELL: And they passed by that

22 one to get to mine. And this was not just one

23 time. Let me show you something else.

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1 COMM. BAYNARD: I've heard enough.

2 I've heard enough. Thank you.

3 MR. BELL: Okay.

4 COMM. BLACKBURN: Are there any

5 questions?

6 (No response.)

7 COMM. BLACKBURN: Hearing none, thank

8 you, Mr. Bell, for your comments today. It will

9 be taken into -- under advisement.

10 MR. BELL: Uh-huh.

11 COMM. BLACKBURN: And you will be

12 apprised of the decision of Mr. Baynard and this

13 Commission.

14 MR. BELL: Okay. Well, I --

15 COMM. BLACKBURN: Thank you.

16 MR. BELL: I want to say this again

17 before I leave.

18 COMM. BLACKBURN: We're adjourned.

19 MR. BELL: Everything --

20 COMM. BLACKBURN: We are adjourned.

21 Mr. Bell, by being adjourned, that means

22 we are going off the record.

23 MR. BELL: Okay.

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1 COMM. BLACKBURN: The Commission

2 meeting is now over.

3 MR. BELL: Well, see, I don't know

4 all of that technical --

5 COMM. BLACKBURN: I understand.

6 - - -

7 Thereupon, the proceedings of
8 October 24, 2014 were concluded
9 at 12:46 o'clock p.m.

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1 CERTIFICATE

2 I, Lindy L. Meyer, Jr., the undersigned
3 Court Reporter and Notary Public residing in the
4 City of Shelbyville, Shelby County, Indiana, do
5 hereby certify that the foregoing is a true and
6 correct transcript of the proceedings taken by me
7 on Friday, October 24, 2014 in this matter and
8 transcribed by me.

9

10 _____

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

14

15 My Commission expires October 27, 2016.

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