

FINAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Pursuant to IC 4-21.5 and the Commission’s June 19, 2020 Order: Automatic Adoption and Approval of Certain Non-Final Decisions, this Order is final, having been automatically approved by the ultimate authority.



FILE DATED: **Sept 17 2021**

**BEFORE THE INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS**



Cherish Stump,

Issued: September 17, 2021

Complainant,

Subject to the Ultimate Authority
of the Indiana Civil Rights Commission

v.

Magna Powertrain, Inc.,

Administrative Cause No.:
ICRC-0621-001321

Respondent.

Underlying State Agency Action No.:
EMse21030095 & 24F-2021-01100C

Hon. Caroline A. Stephens Ryker, Administrative Law Judge.

JURISDICTION

The Commission of the Indiana Civil Rights Commission ("ICRC") has subject matter jurisdiction over employment discrimination complaints based on sex that are filed under the Indiana Civil Rights Law ("ICRL"). IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-6. When a finding of cause is made under the ICRL, pursuant to the Commission's June 19, 2020 Finding of Necessity, the Office of Administrative Law Proceedings ("OALP") shall appoint an Administrative Law Judge ("ALJ") to preside over the matter and to conduct a hearing. IND. CODE § 22-9-1-6; IND. CODE § 4-15-10.5-12; IND. CODE § 4-15-10.5-13.

PROCEDURAL HISTORY

On June 17, 2021, the ICRC made a probable cause finding on Complainant's March 23, 2021 complaint that alleged Respondent violated the Indiana Civil Rights Law ("ICRL") by discriminating against her in the protected area of employment on the basis of sex.

FINDINGS OF FACT

1. On September 16, 2021, Respondent, by counsel, notified the Office of Administrative Law Proceedings by email that a settlement has been reached in this matter. As a result, Respondent moved for this matter to be dismissed.
2. In response, Complainant, by counsel, concurred with Respondent's representation of events and noted that Complainant is seeking to withdraw the complaint.
3. Complainant's counsel was included on Respondent's emails, and Respondent's counsel was included on Complainant's emails.
4. There is no evidence of fraud, coercion, duress, or any other reason not to grant the requested dismissal.
5. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such, and this Order's statement of Procedural History is incorporated into these Findings of Fact.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the Parties. IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-3.
2. The Parties did not file a "consent agreement" or "conciliation agreement" that requires the approval and signature of a majority of the Commissioners. IND. CODE § 22-9-1-6(o); 910 IAC 1-3-4.
3. A Complainant can withdrawal an ICRC complaint by filing a Notice of Withdrawal with the Commission. 910 IAC 1-2-6.
4. A Notice of Withdrawal is a written statement made by the Complainant in which the Complainant requests that the matter be closed. *Id.* The Notice of Withdrawal must be served on all Parties. *Id.*

5. If a hearing has been set, then the majority of the Commission must agree to the withdrawal before the withdrawal is effective in closing the matter. *Id.*
6. However, if a hearing has not been set, then the Notice of Withdrawal filed by a Complainant is immediately effective in closing the matter as of the date of filing. *Id.*
7. Furthermore, on June 19, 2020, the ICRC Commission issued its Order: Automatic Adoption and Approval of Certain Non-Final Decisions (“Commission’s Order”).¹ As detailed in the Commission’s Order (attached as Exhibit A), the Commission, by majority vote, agreed to automatically approve any non-final decision issued by an ALJ in which an ALJ accepts a “Notice of Withdrawal filed by Complainant before a date for a hearing has been set,” provided the Notice of Withdrawal complies with 910 IAC 1-2-6 or in which an ALJ accepts a joint motion to dismiss, provided the Parties waive their right to object to the ALJ’s decision under IAOPA.
8. Complainant filed Complainant’s withdrawal prior to the setting of a hearing in this matter, and Complainant’s withdrawal complies with 910 IAC 1-2-6.
9. Accordingly, this matter is dismissed, and pursuant to IC 4-21.5-3-29 and the Commission’s Order, this Order is automatically affirmed as a Final Order disposing of the proceedings. IND. CODE § 4-21.5-3-27(a).
10. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such, and this Order’s Statement of Jurisdiction is incorporated into these Conclusions of Law.

DECISION

1. Complainant’s March 23, 2021 Complaint is DISMISSED, with prejudice.
2. Either Party to a dispute filed under IC 22-9 may, not more than thirty (30) days after the date of receipt of the Commission’s final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions. IND. CODE § 22-9-8-1.

SO ORDERED: September 17, 2021



Hon. Caroline A. Stephens Ryker, Administrative Law Judge
Indiana Office of Administrative Law Proceedings
100 North Senate Ave., Room N802
Indianapolis, IN 46204
(317) 234-6689

¹ Available here: <https://www.in.gov/icrc/files/Indiana%20Civil%20Rights%20Commission%20Order-Automatic%20Adoption%20and%20Approval%20of...pdf>

Distribution List:

The following distribution list includes the names and mailing addresses of all known Parties and other persons to whom notice is being given. IND. CODE § 4-21.5-3-18. Questions concerning scheduling or other procedures can be directed to (317) 234-6689 or oyalp@oyalp.in.gov.

However, ex parte communications, which are discussions with an ALJ regarding an issue in an open case without notice and opportunity for all Parties to participate, are forbidden by law.

Cherish Stump*: 3124 S. Chippewa Lane, Muncie, IN 47302

Magna Powertrain*: 3603 Everbrook Lane, Muncie, IN 47304

Randy Enochs*: 750 Tower Dr., Troy MI 48098

Christopher Wolcott*: 450 East 96th St., Suite 500, Indianapolis, IN 46240

Frederick Bremer*: 100 North Senate Ave., Room N300, Indianapolis, IN 46204; (317) 232- 2634

Chair Slash of the Indiana Civil Rights Commission – ultimate authority and served at docketclerk@icrc.in.gov

**served by email in care of appearing attorneys through ALP service at the email address listed in the Indiana Roll of Attorneys profile*

INDIANA CIVIL RIGHTS COMMISSION
ORDER: AUTOMATIC ADOPTION AND APPROVAL OF CERTAIN NON-FINAL
DECISIONS

On June 19, 2020, the Majority of the Indiana Civil Rights Commission voted, under Indiana Code 4-21.5-3-29, to automatically adopt and approve as a final order any decision issued by an Administrative Law Judge ("ALJ") assigned to a matter under the June 19, 2020 Order: Finding of Necessity in which the assigned ALJ accepts the following:

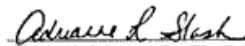
1. A Joint Motion to Dismiss or similar motion in which all parties move for the matter's dismissal and waive their right to file objections to a decision issued by the ALJ under Indiana Code 4-21.5-3-29; and
2. A Notice of Withdrawal filed by Complainant before a date for a hearing has been set, provided the Notice of Withdrawal complies with 910 IAC 1-2-6(A)(i) and 910 IAC 1-2-6(B).

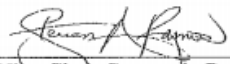
This Order does not apply to any Consent or Conciliation Agreements which require the signature of all approving Commission Members to be effective.

This Order applies with equal force to decisions issued under Indiana Code 22-9, *et. seq.* and Indiana Code 22-9.5, *et. seq.*

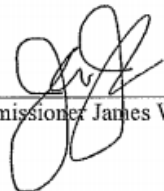
This Order is effective immediately.

SO ORDERED on June 19, 2020 by the majority vote of 4 Commissioners:


Chair Adrienne L. Slash


Vice-Chair Steven A. Ramos


Commissioner Holli Harrington


Commissioner James W. Jackson