

**STATE OF INDIANA
CIVIL RIGHTS COMMISSION**

DOCKET NO. EMsh10090438

DAWN POPE,
Complainant,

v.

TREVIS,
Respondent.

FILE DATED

JUL 22 2011

Indiana State Civil Rights Commission

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On June 8, 2011, Robert D. Lange, Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC"), entered his Proposed Findings Of Fact, Conclusions Of Law, And Order ("the proposed decision").

No objections have been filed to the ICRC's adoption of the proposed decision.

Having carefully considered the foregoing and being duly advised in the premises, the ICRC hereby adopts as its own the findings of fact, conclusions of law, and order proposed by the ALJ in the proposed decision, a copy of which is attached hereto and incorporated herein by reference

INDIANA CIVIL RIGHTS COMMISSION



COMMISSIONER



COMMISSIONER



COMMISSIONER



COMMISSIONER

Dated: 22 July 2011

To be served by first class mail on the following parties and attorneys of record:

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**STATE OF INDIANA
CIVIL RIGHTS COMMISSION**

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DAWN POPE,
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FILE DATED

JUN 9 8 2011

V.

Indiana State Civil Rights Commission

TREVIS,
Respondent.

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

On May 31, 2011, Respondent Trevis, by counsel, filed its Notice Of Election ("NOTICE R"). On June 6, 2011, Complainant, Dawn Pope ("Pope"), by counsel, filed her Notice Of Election ("NOTICE C").

Having carefully considered the foregoing and being duly advised in the premises, the undersigned Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") proposes that the ICRC enter the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. On May 17, 2011, the Deputy Director of the ICRC issued his NOTICE OF FINDING ("FINDING"). The FINDING found probable cause to believe that the Trevis had committed an unlawful discriminatory practice under the Indiana Civil Rights Law, IC 22-9.1 ("the ICRL") and notified the parties that they could elect to have these claims heard in a circuit or superior court in the county in which the alleged discriminatory act occurred if both parties agreed and notified the ICRC.. FINDING, page 2.

2. Both NOTICE R and NOTICE C are written documents and, but for the identity of the person signing them, are identical in content and on a form provided by the ICRC. As a result, since NOTICE R is from the respondent and NOTICE C is from the complainant, these documents together show that the the complainant and the respondent agree to have the claims decided in a court of law.
3. The ICRC has not begun a hearing on the record with regard to the FINDING.
4. Any Conclusion Of Law that should have been deemed a Finding Of Fact is hereby adopted as such.

CONCLUSIONS OF LAW

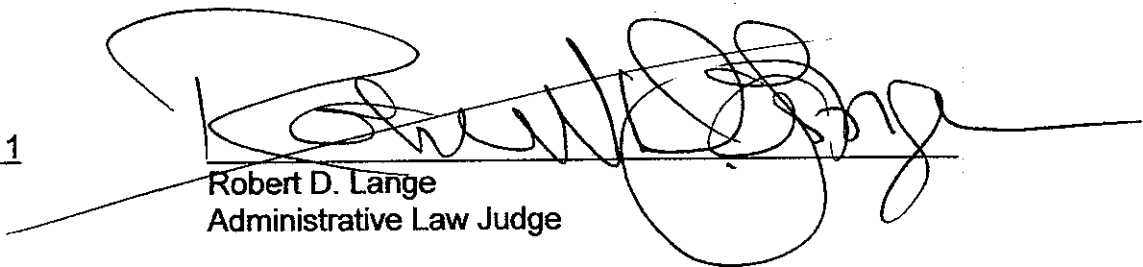
1. Section 16 of the ICRL provides as follows:
 - (a) A respondent or a complainant may elect to have the claims that are the basis for a finding of probable cause decided in a civil action as provided by section 17 of this chapter, However, both the respondent and the complainant must agree in writing to have the claims decided in a court of law. The agreement must be on a form provided by the commission.
 - (b) The election may not be made if the commission has begun a hearing on the record under this chapter with regard to a finding of probable cause.
IC 22-9-1-16.¹
2. In this case, the respondent and the complainant have agreed, in writing, to have the claims decided in a court of law.
3. The ICRC's Rule 3.6 provides that "[i]f all parties have timely filed a timely election to proceed in circuit or superior court, the commission shall dismiss the case, without prejudice." 910 IAC 1-3-6.
4. This complaint must be dismissed under 910 IAC 1-3-6.
5. Administrative review of this proposed decision may be obtained by the filing of a writing identifying with reasonable particularity each basis of each objection within 15 days after service of this proposed decision. IC 4-21.5-3-29(d).

6. Any Finding Of Fact that should have been deemed a Conclusion Of Law is hereby adopted as such.

ORDER

1. Pope's complaint is **DISMISSED**, without prejudice.
2. The Initial Pre-Hearing Conference that had been scheduled for June 13, 2011 is **CANCELLED**.

Dated: 08 June 2011



Robert D. Lange
Administrative Law Judge

To be served by first class mail this 8th day of June, 2011 on the following parties and attorneys of record:

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4100 Edison Lakes Parkway, Suite 100

Mishawaka, IN 46545-3467

and to be served by electronic mail this 8th day of June, 2011 on the following:

Indiana Civil Rights Commission

c/o Jamal L. Smith, Executive Director