



FILED:  
July 7, 2022

STATE OF INDIANA  
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Jennifer Marcum, Complainant, V. Wayzata Home Products, LLC, Respondent.	Administrative Cause No.: ICRC-2202-000219 Underlying Agency Action No.: EMha20020083 24F-2020-01094
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*Subject to the Ultimate Authority of the Indiana Civil Rights Commission*

**RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DEFAULT ORDER**

**JURISDICTION & PROCEDURAL HISTORY**

The Commission of the Indiana Civil Rights Commission ("ICRC") has subject matter jurisdiction over employment discrimination complaints based on disability that are filed under the Indiana Civil Rights Law ("ICRL"). IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-6. On July 16, 2021, the ICRC, after conducting a neutral investigation, made a probable cause finding on Jennifer Marcum's February 27, 2020 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 disability. 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. On June 24, 2022, the undersigned Administrative Law Judge ("ALJ") for the Office of Administrative Law Proceedings issued a Notice of Proposed Default Order, to which a response was not filed. Accordingly, the undersigned ALJ hereby enters the following Default Order based on the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

1. The ICRC issued a Notice of Finding in this matter on July 16, 2021. However, the ICRC did not send the matter to the OALP until February 3, 2022.
2. On February 18, 2022, the undersigned ALJ conducted an Initial Prehearing Conference during which concerns about Respondent's status as a business entity were raised by Respondent's former attorney. Specifically, Respondent's former attorney represented that

Respondent had completed insolvency proceedings. Complainant requested 30 days to investigate the issue.

3. On March 22, 2022, the undersigned ALJ conducted a second Prehearing Conference. Complainant represented that Complainant needed additional time to research Respondent's status.
4. In the resulting March 23, 2022 Second Prehearing Conference Order ("Notice"), the undersigned ALJ scheduled a telephonic Prehearing Conference for May 9, 2022 at 1:00 PM.
5. On May 9, 2022, the undersigned ALJ conducted a third Prehearing Conference, at which Complainant did not appear.
6. In the resulting May 17, 2022 Third Prehearing Conference Order, the undersigned ALJ set a June 6, 2022 deadline for Complainant to file a brief on Complainant's position concerning Respondent's status and Complainant's position on how this matter will proceed in light of the concerns with service of the Notice of Finding.
7. Complainant did not file a brief by June 6, 2022.
8. The undersigned ALJ did not receive a motion to continue the May 9, 2022 Prehearing Conference or the June 6, 2022 briefing deadline, and the undersigned ALJ has not received any information that would indicate that service of the relevant orders was not perfected on Complainant.
9. On June 24, 2022, the undersigned ALJ issued a Notice of Proposed Default Order that include an advisory on the seven (7) day deadline for filing a response and the consequences of failing to file a response. No response was filed.
10. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such, and the procedural history is hereby incorporated by reference.

#### **CONCLUSIONS OF LAW**

1. Under Indiana Code 4-21.5-3-24, a Party may be defaulted when a Party fails to "...attend or participate in a prehearing conference, hearing, or other stage of the proceeding." IND. CODE § 4-21.5-3-24(a)(3).
2. Complainant failed to attend a properly noticed prehearing conference in this matter, and accordingly, the defaulting of Complainant is appropriate pursuant to Indiana Code 4-21.5-3-24. Further, Complainant has not indicated a willingness to participate in this matter, as reflected by Complainant's lack of response to the June 6, 2022 briefing deadline. As a result, the undersigned ALJ issued a Notice of Proposed Default Order as required by Indiana Code 4-21.5-3-24.
3. Petitioner did not file any response to the Notice of Proposed Default Order, and accordingly, the undersigned ALJ hereby issues this Default Order. IND. CODE § 4-21.5-3-24(c).

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

**ORDER**

Having carefully considered all of the foregoing and being duly advised in the premises, the undersigned ALJ hereby orders as follows:

1. Complainant is defaulted.
2. Jennifer Marcum's February 27, 2020 complaint of discrimination is dismissed, with prejudice.

This order is not final until affirmed by the Indiana Civil Rights Commission.

SO ORDERED: July 7, 2022



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

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**APPEAL RIGHTS AND ULTIMATE AUTHORITY REVIEW**

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If a Party to this action wishes to have the ultimate authority administratively review this Recommended Order, the Party requesting review must not be in default and must file written objections that:

- 1) Identify the basis of the objection with reasonable particularity; and,
- 2) Are filed with the Docket Clerk of the Indiana Civil Rights Commission on or before the 15<sup>th</sup> day after the date this order was issued by mail or in person at 100 North Senate Ave., Room N300, Indianapolis, IN 46204, by email at [docketclerk@icrc.in.gov](mailto:docketclerk@icrc.in.gov), or by fax at (317) 232-6580.

A Party shall serve copies of any filed item on all Parties. Questions can be directed to (317) 232-2600. Requests to vacate a default order may be filed with the Chair of the Commission using the above contact information.

ULTIMATE AUTHORITY

The below information is for the Ultimate Authority's use only. Circle, check, or fill in the blanks below.

Timely objections were/were not filed to the above Recommended Order. Timely briefs on objections (if any) were/were not filed. An oral argument on objections (if any) was/was not held.

On May 25, 2023, the Indiana Civil Rights Commission decided, by the majority vote of 5 out of the 5 Commissioners present to:

1. Affirm the above Recommended Order
2. Remand the above Recommended Order as further detailed in ICRC Attachment A.
3. Affirm the above Recommended Order with modifications as further detailed in ICRC Attachment A.

SO ORDERED this 25th day of May, 2023.

Chair Adrienne L. Stash : X Robbie A. Stash

Unless the ICRC remanded this matter to the ALJ, then **THIS IS A FINAL ORDER**. A Party to a dispute filed under IC 22-9 and/or IC 22-9.5 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. IC 22-9-8-1; IC 22-9.5-11-1.

**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. IC 4-21.5-3-18.

Jennifer Haler: 7785 E. 600 North, Falmouth, IN 46127

9214 8901 0661 5400 0186 3034 72

Frederick Bremer\*: 100 North Senate Ave., Room N300, Indianapolis, IN 46204; (317) 232-2600

Todd Nickel of CT Corporation System: 334 North Senate Ave., Indianapolis, IN 46204

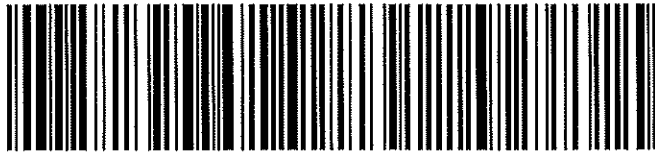
9214 8901 0661 5400 0186 3035 95

Andy Juang of CT Corporation System: 150 W. Market St., Suite 800, Indianapolis, IN 46204

\*served in care of appearing attorney through ALP system at the email address on file with the Indiana Roll of Attorneys – all other service by mail.

9214 8901 0661 5400 0186 3037 31

MICHAEL C. LOSTUTTER  
INDIANA CIVIL RIGHTS COMMISSIO  
100 N SENATE AVE RM N300  
INDIANAPOLIS, IN 46204-2208



9214 8901 0661 5400 0186 3034 72

RETURN RECEIPT (ELECTRONIC)

EMha20020083

JENNIFER MARCUM (HALER)  
7785 E 600 N  
FALMOUTH, IN 46127-9796

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CUT / FOLD HERE

Zone 1

.....  
6"X9" ENVELOPE  
CUT / FOLD HERE

.....  
CUT / FOLD HERE



MICHAEL C. LOSTUTTER  
INDIANA CIVIL RIGHTS COMMISSIO  
100 N SENATE AVE RM N300  
INDIANAPOLIS, IN 46204-2208



9214 8901 0661 5400 0186 3037 31

RETURN RECEIPT (ELECTRONIC)

EMha20020083

CT CORPORATION SYSTEM  
150 W MARKET ST STE 800  
INDIANAPOLIS, IN 46204-2814

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Zone 1

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6"X9" ENVELOPE  
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