



**TENNESSEE HUMAN RIGHTS COMMISSION**  
WILLIAM R. SNODGRASS TENNESSEE TOWER  
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**Friday, September 18, 2020**  
**Board of Commissioners Meeting**  
**Meeting Minutes | Via WebEx**

**Commissioners Present:**

Commissioner Arnwine  
Commissioner Behler  
Commissioner Crafton  
Commissioner Crider  
Chair Derryberry  
Commissioner Hayes  
Commissioner Houston  
Commissioner Martin  
Commissioner Sloss

**Commissioners Absent:**

**Staff Present:**

Beverly L. Watts, Executive Director  
Carla Brookins, Deputy Director  
Lynn Cothren, Special Assistant to the Executive Director  
Dawn Cummings, General Counsel  
Veronica McGraw, Communications Director  
Irwin Venick, Attorney Advisor to Board of Commissioners  
Tanya Webster, Title VI Compliance Director  
Saadia Williams, Housing Coordinator

**Guests Present:**

George Underwood  
Kelley Strange  
John J. Griffin  
Ricky Woods  
Ken Williams  
Jay G. Bush  
Vanessa Bullock, West TN Legal Services  
Darren Foster, IT

## **Call to Order**

Chair Derryberry called the meeting to order at 9:01 a.m. CDT and asked for a moment of silence to clear minds and concentrate on the work ahead. Chair Derryberry thanked everyone involved in the cases that will be reviewed at the beginning of the meeting. Chair Derryberry asked for a roll call, Lynn Cothren called the roll. All the commissioners were present. Lynn Cothren read the list of guest present.

## **Commission Review of Initial Orders**

Chair Derryberry stated the next items on the agenda was Commission Board proceeded to conduct Commission Board reviews of two Initial Orders under authority given in Tenn. Code Ann. § 4-21-305.

Chair Derryberry stated the first Initial Order reviewed by the Commission Board was the Initial Order in matter of *Tia Free v. Ray Berryman, Tina Berryman, and Berryman Enterprises, Inc.*, 34.00-154943J. The Commission filed a Notice of Intent to Review of Initial Order pursuant to Tenn. Code Ann. § 4-5-315 on March 13, 2020. The THRC was the Petitioner in this matter. The Aggrieved Party in this matter was Martin Dixon. The Respondents were Samuel Snead, Rebecca Snead, and Scott Shafer. The Commission Board was represented by the THRC Associate Counsel William Wade. The Aggrieved Parties were represented by Vanessa Alsobrooks Bullock. Ricky Wood and Jay G. Bush represented the Respondents. Mr. Irwin Venick will be advising the Board of Commissioners on this matter.

Commissioners Arnwine, Crafton, Crider, Derryberry, Hayes, Houston, Martin and Sloss deliberated in this matter. These Commissioners agreed that they had no conflicts that may create an impression of possible bias or could reasonably be raising a question about impartiality. All Commission board members acknowledged that they had an opportunity to review the technical record. Acting in accordance with Tenn. Code Ann. § 4-5-315, the Board of Commissioners did not request that oral arguments be made by the Petitioner and Respondents.

Chair Derryberry provide the following summary: "This matter was tried on December 19, 2019 before the Honorable Shannon Barnhill, an Administrative Law Judge assigned by the Secretary of State's Administrative Procedures Division. On March 9, 2020, Judge Barnhill issued an Initial Order finding in favor the Respondents. Judge Barnhill ruled that the Petitioner did not establish by a preponderance of the evidence that the Respondents had denied the Aggrieved Parties' request for a reasonable accommodation in violation of Tenn. Code Ann. § 4-21-601(b)(2)(B). Additionally, Judge Barnhill ruled that the Petitioner did not establish by a preponderance of the evidence that the Respondents retaliated against the Aggrieved Parties in violation of Tenn. Code Ann. § 4-21-301(1). After some discussion the Board of Commissioners adopted and incorporated by reference the Findings of Facts contained in Administrative Judge Barnhill's February 10, 2020 Initial Order and affirmed the Initial order of Judge Barnhill.

Chair Derryberry noted “Commissioners this now concludes the matter of THRC v. Ray Berryman, et al. Docket No. 34.00-154943J. A Final Order will be entered incorporating this body’s findings of facts and conclusions of law in this matter. Thank you.”

Chair Derryberry stated the next Initial Order reviewed by the Commission Board was the Initial Order in matter of *Casey Collins and Hugh Matthews v. Hugh Billingsley*, 34.00-156923J

Chair Derryberry noted the following summary. We are here today to review the Initial Order entered by Judge Cambron on July 17, 2020 in the case of THRC v. Billingsley, Docket No. 34.00-156923J under the authority of TCA § 4-21-305. The Commission filed a Notice of Intent to Review Initial Order pursuant to TCA § 4-5-315 on July 20, 2020. The THRC is the Petitioner in this matter. The Aggrieved Parties in this matter are Casey Collins and Hugh Matthews. The Respondent is Hugh Billingsley. William Wade, Associate General Counsel for the Commission, represents the Petitioner, THRC. The Aggrieved Parties are represented by Kenneth S. Williams. Kelley Strange and John J. Griffin, Jr. represent the Respondent. Mr. Irwin Venick will be advising the Board of Commissioners in this matter.

As a quick reminder - a conflict of interest is an involvement or relationship which might create an impression of possible bias or could reasonably be seen as raising a question about impartiality. Chair Derryberry asked the following two questions of commissioners- Do any Commissioners have a conflict of interest that would require them to recuse themselves from deliberating in this matter? Have all Commissioners had an opportunity to review the technical record submitted by the Administrative Procedures Division and the briefs submitted by the Parties?

Commissioners Arnwine, Crafton, Crider, Derryberry, Hayes, Houston, Martin and Sloss These Commissioners agreed that they had no conflicts that may create an impression of possible bias or could reasonably be raising a question about impartiality. All Commission board members acknowledged that they had an opportunity to review the technical record. Acting in accordance with Tenn. Code Ann. § 4-5-315, the Board of Commissioners did not request that oral arguments be made by the Petitioner and Respondents

The Board of Commissioners, upon review of the technical record, the statements of counsel, and the briefs of the parties, voted by majority to remand this matter back to Judge Cambron to respond to the following questions:

Whether or not the relationship between the Aggrieved Parties, Hugh Matthews and Casey Collins, was sufficient to give standing to Aggrieved Party, Hugh Matthews, in this matter?

Whether or not the Aggrieved Parties’ Counsel’s submitted hourly rate of \$450.00 was reasonable given the complexity of this matter?

Whether or not the Honorable Judge Cambron may allocate the award of attorney’s fees between the Aggrieved Parties, Hugh Matthews and Casey Collins; rather than awarding an aggregate award of attorney’s fees for the Aggrieved Parties. If so, the Board of Commissioners respectfully requests that Judge Cambron, on remand, allocate the award

of attorney's fees between the Aggrieved parties, Hugh Matthews and Casey Collins. Attached to these minutes is a full transcript of all discussions and actions on this matter.

Chair Derryberry noted the conclusion review of Initial Orders and said that the business portion of the meeting will begin.

### **Review of Minutes**

Chair Derryberry announced the retirement of Lisa Lancaster which was effective on August 31, 2020. Chair Derryberry read a letter on behalf of Commissioners expressing their appreciation for Lisa's service to THRC. Commissioners Martin, Houston, Sloss, Arnwine, Crafton and Behler, all thanked Lisa for her commitment and dedication to THRC and the Board of Commissioners. The Chair did indicate that Lisa had agreed to serve an additional 120-day assignment to assist in training current and new staff on THRC administrative procedures.

### **Executive Committee Report**

Chair Derryberry moved on to discuss the committee reports. She began with the review of the minutes for the executive committee meeting, this committee met on September 3, 2020. In the minutes from the committee report it was noted that the agency has seen several retirements, COVID-19 work from home updates. She said that case processing, audits and standard operating procedures have had some issues, those issues were discussed in the committee meeting. Chair Derryberry asked if Commissioners Martin and Arnwine if they had any additional comments about the minutes from the executive committee report, they did not. Chair Derryberry asked for a motion to accept the report, Commissioner Martin moved the motion and Commissioner Arnwine seconded. The executive committee report was accepted by the board of commissioners.

### **Education and Outreach Committee Report**

Chair Houston noted that she is the chair of the Education and Outreach Committee and the minutes read as if Chair Derryberry was the committee chair, she asked for corrections to be made to the minutes. Commissioner Houston noted the committee reviewed the annual report documents and had no other comments. Chair Derryberry asked for a motion to accept the education and outreach report, Commissioner Behler moved the motion and Commissioner Hayes seconded. The education and outreach committee report was accepted by the board of commissioners.

### **Budget and Audit Committee Report**

Commissioner Arnwine noted that the committee met on September 9, 2020. He said the committee reviewed the close of the FY 2020 fiscal year, the FY 2021 budget and the proposed FY 2022 budget. Chair Derryberry asked for a motion to accept the budget and audit report. A motion was made by Commissioner Crafton and the budget and audit committee report was accepted by the board of commissioners.

## **Executive Director's Report**

Before Executive Director Watts began discussing her report, she asked for clarification from chair Derryberry about approving the education and outreach committee meeting report regarding the THRC annual report and the Title VI annual report. It was clarified by Chair Derryberry that the motion accepted for the education and outreach report approved the release of the two annual reports. Director Watts also asked if the minutes from the July 17, 2020 commission meeting were approved, Chair Derryberry said yes, Commissioner Behler said that the minutes were not approved. Chair Derryberry asked for a motion to accept the minutes from the July 17, 2020 commission meeting, Commissioner Behler moved the motion which was seconded by Commissioner Hayes. The July 17, 2020 commission meeting minutes were accepted by the board of commissioners.

Executive Director Watts gave an update on agency staffing, open and filled positions and rules around retirements. She noted that Lisa Lancaster will be returning for 120-days as a retiree to assist in training new staff and other staff on administrative processes. She noted that the agency was in the process of filling the Employment Intake Specialist(resignation), the Front Desk Staff (resignation) Administrative Specialist IV (retirement) and the Chattanooga Regional Coordinator (retirement). She asked if there were questions about staffing, there were no questions. She noted that the agency received approximately \$60,000 in HUD grants for housing education and outreach. She noted that the agency can now answer our phones remotely after finding the right person and answer. She asked Allen Staley to provide a budget update. He said that the current fiscal year budget is not final because we may be subject to additional cuts, noted that the FY 2022 budget is due on September 27, 2020 but were waiting on details regarding the percentage of cuts. He said he was hoping to have updates within a few weeks. He gave an update on the fiscal year FY 2022 budget processes. Chair Derryberry asked the board about the upcoming hearings that Director Watts discussed in her report, she asked what the pleasure of the commission was. Commissioner Martin said that he would like to see them in dockets and spread out because it is a lot of information to look at all at one time. Commissioners Houston, Behler and Derryberry agreed with Commissioner Martin. Chair Derryberry asked for a motion to accept the Executive directors report and spreading the cases out over dockets. Commissioner Martin moved the motion and Commissioner Arnwine seconded. The executive directors report was accepted by the board of commissioners.

## **Employment Case Report**

Deputy Director Carla Brookins gave the employment case report for the period of July 1-August 31, 2020. She said that the number of cases investigated by the agency has decreased due to individuals who have retired and moved on from the agency and the number of inquiries have decreased due to COVID19. She said that there were 125 inquiries received, of which 78% were online inquiries. She gave an update on the EEOC contract and is working on the EEOC contract for next year. She said that there are 25 cases that are in the process of being closed and 2 cases that were settled in the

reporting period which totaled \$87,500 in monetary benefits to the complainants. She said that due to COVID all mediations have been on hold but will be completed by phone and WebEx beginning this month. She asked if there were any questions, there were no questions. Chair Derryberry asked for a motion to accept the employment report, Commissioner Houston moved the motion and Commissioner Hayes seconded. The employment report was accepted by the Board of Commissioners.

### **Housing Case Report**

Housing coordinator Saadia Williams gave the housing case report for the period of July 1-August 31, 2020. She said that there were 163 inquiries received and 23 were accepted as complaints, she said disability continues to be the number one basis for a complaint followed by race and familial status. She stated that the efficiency goal is 50% which means that 50% of the complaints must be closed under 100 days, the efficiency goal is currently at 42%. She said that the timing milestone was met by sending out acceptance and notification letters for a total of 23. She asked if there were any questions, there were no questions. Chair Derryberry asked for a motion to accept the housing report, Commissioner Arnwine moved the motion and Commissioner Martin seconded. The housing report was accepted by the Board of Commissioners.

### **Title VI Compliance Report**

Title VI compliance director Tanya Webster gave the Title VI report for the period of July 1-August 31, 2020. She said there were 47 Title VI inquiries received, 16 were determined jurisdictional and assigned to state agencies for investigation, 31 were non-jurisdictional and there are 57 open Title VI complaints. On August 19, 2020 Title VI conducted a training titled Fundamentals of Title VI, she said there were 76 attendees. On August 20, 2020 Title VI conducted the annual Title VI training, she said there were 105 attendees and all 46 Title VI coordinators were in attendance. Title VI received 298 requests for technical assistance, for FY 19-20 implementation plan guidelines were presented at the annual training. She stated that electronic implementation plans are now allowed, and 3 implementation plans have been received so far. She asked if there were any questions, there were no questions. Chair Derryberry asked for a motion to accept the Title VI report, Commissioner Behler moved the motion and Commissioner Arnwine seconded. The Title VI report was accepted by the Board of Commissioners.

### **Communications Report**

Communications Director Veronica McGraw said that since the THRC annual report and Title VI report was approved for release she will work with the states printing department and post the reports to the THRC website within the next few weeks. She gave an update on the THRC events that were canceled due to COVID-19 and gave updates on the THRC employment law seminar that was held on September 2, 2020 with 250 attendees. She gave an overview of the HUD partnership funds that was awarded to THRC in the amount of \$25,000 for statewide fair housing activities. She gave an overview of the HUD CARES ACT funding that was awarded to THRC in the amount of \$48,000 for statewide fair housing and COVID-19 educations and outreach activities. She said that there is a total of \$73,000 of HUD funding which will fund a combination of things such as advertising, educational presentations and other fair

housing activities. She identified the fair housing activities partners as West Tennessee Legal Services and Habitat for Humanity of Greater Memphis. She asked if there were any questions, Commissioner Behler said that Jocelyn Wurzburg's name was misspelled in the annual report, Veronica McGraw ensured that she would make the edit before releasing the report. Chair Derryberry asked for a motion to accept the communications report, Commissioner Arnwine moved the motion and Commissioner Crafton seconded. The communications report was accepted by the Board of Commissioners.

Chair Derryberry asked if there were any visitors who wanted to make public comments, there were no public comments made. Chair Derryberry noted that the next commission meeting is on November 20, 2020. She thanked everyone and expressed her appreciation. Commissioner Behler asked about the recognition of Rev. White with the Wurzburg award, Director Watts said that we are working on it and waiting to hear back from Mrs. White. Director Watts said that she was hoping to do something in person and discuss virtual options but will try to go to Memphis if possible. Commissioner Behler said that he would prefer to wait in order to have the recognition in person but will wait for updates.

Chair Derryberry asked if there were any other comments, there were no comments, the meeting was adjourned by Chair Derryberry at 10:43 a.m. CST.

**COLINS**  
**vs.**  
**BILLINGSLEY**

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**COMMITTEE MEETING**

**September 18, 2020**



**April Howard, LCR**

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STATE OF TENNESSEE  
VIDEOCONFERENCE BOARD OF TENNESSEE DEPARTMENT  
OF HUMAN RIGHTS

September 18, 2020

9:00 a.m.

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TRANSCRIPT OF PROCEEDINGS

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A P P E A R A N C E S

- Commission Chair, Robin Derryberry
- Commissioner, Mark Hayes
- Commissioner, Christopher Crider
- Commissioner, Annazette Houston
- Commissioner, Scott Arnwine
- Commissioner, Eric Crafton
- Commissioner, Julius Sloss
- Commissioner, Bill Martin
- Commissioner, Gary Behler

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P R O C E E D I N G S

(WHEREUPON, with a quorum of the Chair Robin Derryberry, the following proceedings were had:)

CHAIRMAN DERRYBERRY: Let's move now on into Tennessee Human Rights Commission vs. Billingsley. we had quite a bit of information provided to the commission for review. Again, I would like to thank you, the commission for the time it took to review this information. There was quite -- quite a bit. So we certainly appreciate all the time that took and appreciate everyone who worked on this case, so thank you in advance.

We're here today to review the initial order entered by Judge Cameron on July 17, 2020 in the case of THRC vs. Billingsley, Docket No. 34.00-156923J. Under the authority of TCA 4-21-305, the commission filed a notice of intent to review an order -- review initial order, pursuant to TCA 4-5-315 on July 20, 2020. The THRC is the petitioner in this case. The agreed parties in this matter are Casey Colins and Hugh Matthews 0 and the respondent is Hugh Billingsley. William Wade who is the associate general counsel

1 for the commission represents the petitioner THRC.

2 Mr. Irwin Venick will be advising the  
3 Board of Commissioners in this matter. And, again,  
4 Mr. Venick, we certainly appreciate your time. The  
5 agreed parties are represented by Kenneth S.  
6 Williams. Kelly Strange and John Griffin, Jr.  
7 represent the respondent. According -- acting in  
8 accordance with TCA 45-315, the Board of  
9 Commissioners did not request that oral arguments be  
10 made by the parties.

11 Again, I want to call the commission's  
12 attention to those two documents that we received  
13 yesterday. They are both from HUD. One is the  
14 joint statement of the Department of Housing and  
15 Urban Development Department of Justice Responsible  
16 Accommodation under the Fair Housing Act and the  
17 second is a document entitled accessing a person's  
18 request to have an animal as a reasonable  
19 accommodation and Fair Housing Act. Both of those  
20 documents are very helpful in guiding and directing  
21 our efforts today.

22 As a quick reminder, a conflict of interest  
23 is a involvement of relationship which might create  
24 an impression of possible bias or could reasonably  
25 be conceived as raising a question about

1 impartiality. Do any commissioners have a conflict  
2 of interest that would require them to recuse  
3 themselves from deliberating this matter?

4 Commissioner Arnwine? 5

5 MR. ARNWINE: No. 0

6 CHAIRMAN: Commissioner Behler.

7 MS. BEHLER: No.

8 CHAIRMAN: Commissioner Crafton.

9 COMMISSIONER CRAFTON: No.

10 CHAIRMAN DERRYBERRY: Mr. Crider.

11 COMMISSIONER CRIDER: No.

12 CHAIRMAN DERRYBERRY: Commissioner

13 Hayes.

14 COMMISSIONER HAYES: No.

15 CHAIRMAN DERRYBERRY: Commissioner

16 Houston.

17 COMMISSIONER HOUSTON: No.

18 CHAIRMAN DERRYBERRY: Commissioner

19 Martin.

20 COMMISSIONER MARTIN: No.

21 CHAIRMAN DERRYBERRY: Commissioner

22 Sloss.

23 COMMISSIONER SLOSS: No.

24 CHAIRMAN DERRYBERRY: And the Chair does

25 not have one either. Have all commissioners had an

1 opportunity to review the technical record submitted  
2 by the administrative division and the briefs  
3 committed by all parties? Has everyone done that?

4 Commissioner Arnwine. 2

5 MR. ARNWINE: Yes. 5

6 CHAIRMAN DERRYBERRY: Commissioner  
7 Behler.

8 MS. BEHLER: Yes.

9 CHAIRMAN DERRYBERRY: Commissioner  
10 Crafton.

11 COMMISSIONER CRAFTON: Yes.

12 CHAIRMAN DERRYBERRY: Commissioner  
13 Crider.

14 COMMISSIONER CRIDER: Yes.

15 CHAIRMAN DERRYBERRY: Okay.

16 Commissioner Houston.

17 COMMISSIONER HOUSTON: Yes.

18 CHAIRMAN DERRYBERRY: Okay.

19 Commissioner Martin.

20 COMMISSIONER MARTIN: Yes.

21 CHAIRMAN DERRYBERRY: Okay.

22 Commissioner Hayes.

23 COMMISSIONER HAYES: Also.

24 CHAIRMAN DERRYBERRY: So those who will  
25 be commissioning in this matter will be

1 Commissioners Arnwine, Behler, Crafton, Crider,  
2 Hayes, Houston, Martin, Sloss, and the Chair.

5

3 We'll proceed if everyone is now ready.  
4 Let's talk first about liability. In Judge  
5 Cameron's initial order she ruled that the  
6 petitioner established by preponderance of the  
7 evidence that the respondent denied the party's  
8 request for reasonable accommodation in violation of  
9 TCA 4-21-601(b)(2)(d). Judge Cameron also ruled  
10 that the petitioner established by a preponderance  
11 of the evidence that the respondent retaliated  
12 against the agreed party's in violation of TCA  
13 4-3-301.

14 We'll now discuss the relevant law  
15 regarding claims for the denial of reasonable  
16 accommodations and retaliation. In order to  
17 establish a claim for the denial of reasonable  
18 accommodations, the petitioner must show the  
19 following: The agreed party's or party is a person  
20 with a disability or associated with a disability.  
21 The respondent knew the person was disabled. The  
22 agreed party or party's needed a reasonable  
23 accommodation in order to use the housing. The  
24 respondent knew or should have known the relief for  
25 accommodations or the accommodation was denied

1 unreasonably. In other words to establish a claim  
2 for retaliation, the petitioner must show the  
3 following by preponderance of the evidence: The  
4 agreed party or party's engaged in a protected  
5 activity at the time the respondent took an adverse  
6 action against the agreed party or party's. There  
7 was a causal connection between the protected  
8 activity at the time of the adverse action.

9           Please also know that once again  
10 preponderance of the evidence means more likely than  
11 not. As you know we have three options before us.  
12 We can affirm Judge Cameron's initial order, reverse  
13 it, or modify it or we can remand it back to  
14 Judge Cameron for additional pleadings. We will be  
15 conducting two votes. One to determine if the  
16 petitioner shows by a preponderance of the evidence  
17 that the respondent denied or unreasonably denied  
18 the agreed party's reasonable accommodation request.

19           Second, we will vote to determine if the  
20 petitioner showed by a preponderance of the evidence  
21 that the respondent engaged in unlawful retaliation.  
22 So we will begin by deliberating on the petitioner's  
23 claim that the respondent denied or unreasonably  
24 denied the agreed party's reasonable accommodation  
25 request. Does any commissioner wish to make a



1 public discussion request regarding the petitioner's  
2 claim that the respondent unlawfully denied or  
3 delayed the agreed party's reasonable accommodation  
4 request? Commissioner Arnwine. 3

5 MR. ARNWINE: No. 9

6 CHAIRMAN DERRYBERRY: Commissioner  
7 Behler.

8 MS. BEHLER: No.

9 CHAIRMAN DERRYBERRY: Commissioner  
10 Crafton.

11 COMMISSIONER CRAFTON: No.

12 CHAIRMAN DERRYBERRY: Commissioner  
13 Crider.

14 COMMISSIONER CRIDER: Well, maybe just a  
15 short one. Just briefly in the party's own words in  
16 the brief -- the respondent's brief here. I will  
17 just read ten lines to you. It says, The entire  
18 time this dispute was going on, were you allowed to  
19 keep your dog on the property?

20 Yes.

21 So you were never denied the benefit of  
22 your dog?

23 No.

24 Were you ever fined for having a service  
25 dog?

1 No.

2 Were you ever evicted from the premises?

3 No.

4 Were you ever prevented use of rental  
5 premises?

6 No.

7 So you were never prevented the use of  
8 any of the rental premises?

9 That's correct.

10 In fact, you were allowed to stay at the  
11 premises the entire time with your service dog while  
12 the dispute was taking place?

13 Yes. That's all.

14 CHAIRMAN DERRYBERRY: Does that conclude  
15 your statement? Okay.

16 Commissioner Hayes.

17 COMMISSIONER HAYES: Very briefly. I  
18 have some concerns about the complainant Matthews as  
19 to whether or not he's a person with a disability  
20 and whether or not we have jurisdiction to, you  
21 know, proceed against the landlord for his benefit.  
22 As I understand it, it was Colins who is the person  
23 with a need for the service animal and not Matthews.  
24 And so I have concerns about awarding damages to  
25 Matthews who does not even claim to have a

1 disability, but is -- I really think that they are  
2 roommates, but I don't see that he has a disability  
3 and that we have the right to deal with him.

4 I also want to talk about the attorney  
5 fees at some point but now is not the time for that,  
6 thank you.

7 CHAIRMAN DERRYBERRY: Thank you. Could  
8 I ask our attorney please, Mr. Venick, to weigh in?

9 MR. VENICK: Why, yes.

10 CHAIRMAN DERRYBERRY: Could you please  
11 address the question that Commissioner Hayes just  
12 asked about whether or not the commission has  
13 jurisdiction over a case like this?

14 MR. VENICK: My sense would be to the  
15 extent that the complainant had some benefit arising  
16 from the lease arrangement and suffered some  
17 consequence as a result of the alleged failure to  
18 provide a reasonable accommodation, I would think  
19 that the commissioner had jurisdiction over that  
20 because it's between the disability rights for  
21 reasonable accommodation and the complainant.

22 CHAIRMAN DERRYBERRY: Thank you.

23 Commissioner Hayes, does that answer  
24 your question?

25 COMMISSIONER HAYES: Certainly it does

1 answer the question, but brings home the remaining  
2 question as to whether or not Mr. Matthews suffered  
3 any damages as a result of the actions that were  
4 found by the administrative law judge to have taken  
5 place. Commissioner Crider read through the  
6 testimony there of Matthews and it does not appear  
7 that he claims that he incurred any damages other  
8 than to remain roommates with Mr. Colins. They made  
9 the decision to leave and I understand as to  
10 Mr. Colins. That's not the object of my question.  
11 But anyway I think when we vote on that we probably  
12 should take the two complainants as a separate  
13 matter, at least that's my suggestion.

14 CHAIRMAN DERRYBERRY: Thank you very  
15 much, and we'll pick that up when we vote about the  
16 damages and begin to separate this out a little bit  
17 more as well. I appreciate your thoughts on that.

18 Are there other commissioners that wish  
19 to speak to this commission? Commissioner Houston?

20 COMMISSIONER HOUSTON: No.

21 CHAIRMAN DERRYBERRY: Mr. Martin.

22 COMMISSIONER MARTIN: No.

23 CHAIRMAN DERRYBERRY: Commissioner  
24 Sloss.

25 COMMISSIONER SLOSS: No.

1                   CHAIRMAN DERRYBERRY: Okay. So in  
2 addition, we are now ready to vote on the matter.  
3 Pursuant to Tennessee law this vote will be made by  
4 a simple majority of commissioners. Do you believe  
5 the petitioner established by a preponderance of the  
6 evidence that the respondent denied or unreasonably  
7 delayed the agreed party's request for reasonable  
8 accommodation based on the evidence before you?

9                   COMMISSIONER CRAFTON: Chairman  
10 Derryberry, this is Commissioner Crafton. I  
11 couldn't pick up the commissioner's points because  
12 it was a little garbled, but the previous  
13 commissioner that said he wanted to bifurcate the  
14 two complaints, is it time for him to back that  
15 motion or I'm not sure? I just wanted to make sure  
16 that we did what he wanted to do without skipping  
17 it?

18                   CHAIRMAN DERRYBERRY: We are certainly  
19 open to that, Commissioner Hayes. We would be open  
20 to that.

21                   COMMISSIONER HAYES: I think we should  
22 vote as to this request -- I'm not -- the  
23 complainants separately so I would make that motion.

24                   CHAIRMAN DERRYBERRY: Would anyone like  
25 to second that motion?

1 COMMISSIONER SLOSS: Second.

2 CHAIRMAN DERRYBERRY: Commissioner Sloss  
3 seconded the motion that we divide the party's.  
4 Discussion.

5 COMMISSIONER CRIDER: I just want to  
6 make sure that -- I think it got a little confusing  
7 but the definition that I read was the testimony  
8 under oath from Mr. Colins. And I believe that  
9 that's probably -- what we'll probably take up  
10 first, the person with the disability is Mr. Colins  
11 and I think we know it and he never denied living  
12 there or was never without his service animal. So  
13 I'm going to make sure that was clear, because it  
14 sounded like it may have been -- gotten a little bit  
15 different. Thank you.

16 CHAIRMAN DERRYBERRY: Any other  
17 commissioners that would like to make a comment.

18 MS. BEHLER: This is  
19 Commissioner Behler. You know, Chair, I would like  
20 to -- our attorney to weigh in on whether -- do we  
21 have the authority to be able to split these in this  
22 case? This was a decision handed down by the  
23 administrative law judge combining these two, and I  
24 want to make sure we have the ability to split those  
25 before we vote on that.

1 MR. VENICK: As I understood the  
2 comments made previously -- and I think it was by  
3 Commissioner Hayes, there was an issue raised with  
4 respect to damages, and certainly I think the  
5 commission would have the ability to allocate  
6 damages. Then it appears that the motion -- the  
7 issue was raised as to separating -- the issue of  
8 liability with respect to the two individuals. I  
9 think if the commission believes there is sufficient  
10 information in the record upon which to make that  
11 division, it can do so. Although, it would have to  
12 identify specific reasons why it's making that  
13 determination to divide the complainants into  
14 separate entities.

15 CHAIRMAN DERRYBERRY: Agreed. We have a  
16 motion and a second to divide this case up between  
17 the party's. Would you like to proceed with the  
18 vote or vote on accommodation first?

19 COMMISSIONER SLOSS: Madame Chair, this  
20 is Commissioner Sloss. I thought when  
21 Commissioner Hayes -- before he brought his motion,  
22 he explained his rationale for wanting to separate  
23 the two complainants. I mean, did I miss something?

24 CHAIRMAN DERRYBERRY: No.

25 COMMISSIONER CRIDER: Help me

1 understand. I feel like we have to first decide if  
2 anybody did anything wrong before we then decide to  
3 split up damages.

4 CHAIRMAN DERRYBERRY: That's correct.

5 COMMISSIONER CRIDER: And so are we now  
6 trying to decide if anybody did anything wrong? Are  
7 we are going to split that up? Is that what we are  
8 doing?

9 CHAIRMAN DERRYBERRY: What the  
10 commission will vote on first is the reasonable  
11 accommodation vote and after that then we will move  
12 forward with the motion that's been made and  
13 seconded -- motion made by Commissioner Hayes and  
14 seconded. So that we can move forward to determine  
15 what we need -- whether to split these party's up.  
16 Does that sound fair enough?

17 COMMISSIONER SLOSS: Yes. Madame Chair.  
18 This is Commissioner Sloss again. So for the sake  
19 of clarity, Commissioner Hayes -- just so everyone  
20 is clear as to what we are voting on, will you  
21 please explain your rationale for wanting to  
22 separate Mr. Colins and Mr. Matthews.

23 COMMISSIONER HAYES: With the Chair's  
24 permission, here's what I made the motion -- in  
25 simple terms. Mr. Colins I think has been found to



1 be a person with a disability that made the request  
2 for a service animal. Mr. Matthews, a person who  
3 has not been found to have a disability, he did not  
4 make a request for a service animal. As our  
5 attorney pointed out, he's in this thing really  
6 because he's the roommate of the person who is the  
7 real party in interest, the real complainant in this  
8 matter. So I think it's really important to  
9 determine whether or not the landlord committed  
10 first -- committed the act as to each of the two as  
11 opposed to the group of them together. This is not  
12 a participant and child situation. This is a  
13 roommate situation of what I understand to be  
14 unrelated people. And so I think it's important to  
15 divide them.

16 Now, as you-all know, I'm fairly new at  
17 this, and so I'm just -- I'm trying to do this in a  
18 way that makes good common sense to me, but if that  
19 somehow runs afoul, I certainly do not want to do  
20 that.

21 CHAIRMAN DERRYBERRY: What is the wish  
22 of the commission?

23 COMMISSIONER CRIDER: I assume that we  
24 have a motion and a second on Commissioner Hayes'  
25 motion. So seems like we are ready to proceed with

1 that.

2 CHAIRMAN DERRYBERRY: All right. So the  
3 motion on the floor that has a second is the vote to  
4 divide this case into two party's, and so we'll  
5 proceed forward with that vote. Mr. Arnwine. 5

6 MR. ARNWINE: Yes. 4

7 CHAIRMAN DERRYBERRY: Mr. Behler.

8 MS. BEHLER: Yes.

9 CHAIRMAN DERRYBERRY: Commissioner  
10 Crafton.

11 COMMISSIONER CRAFTON: Yes.

12 CHAIRMAN DERRYBERRY: Commissioner

13 Crider.

14 COMMISSIONER CRIDER: Yes.

15 CHAIRMAN DERRYBERRY: Commissioner

16 Hayes.

17 COMMISSIONER HAYES: Yes.

18 CHAIRMAN DERRYBERRY: Commissioner

19 Houston.

20 COMMISSIONER HOUSTON: Yes.

21 CHAIRMAN DERRYBERRY: Commissioner

22 Martin.

23 COMMISSIONER MARTIN: Yes.

24 CHAIRMAN DERRYBERRY: Commissioner

25 Sloss.

1                   COMMISSIONER SLOSS: Yes.

2                   CHAIRMAN DERRYBERRY: And the chair  
3 votes yes. So now we need to divide this between  
4 the two parties. Let me ask a question of the  
5 commission. Would you like to remand it back to the  
6 judge for consideration now that we've asked to  
7 divide this between two parties instead of together?

8                   COMMISSIONER CRAFTON: I would prefer to  
9 go ahead and deal with it. I don't want to rack up  
10 more legal fees for the commission or anyone else.

11                  COMMISSIONER MARTIN: I would rather  
12 proceed with it.

13                  CHAIRMAN DERRYBERRY: Okay. Is that the  
14 wish of the commission to proceed? All right. Then  
15 that is what we will do. Let's go ahead and vote on  
16 reasonable accommodations. We will deliberate on  
17 the petitioner claim of whether or not he was denied  
18 the party's reasonable accommodation request.

19                  Now that we have divided the parties in  
20 two and we'll have -- let's see -- we have  
21 Mr. Colins and we have Matthews. So let's first  
22 take a vote on whether Colins -- the reasonable  
23 accommodation vote for or against Mr. Colins. We  
24 will take a vote on whether or not there was  
25 reasonable accommodation. So this is for Mr. Colins

1 who has the disability. Commissioner Arnwine. 7

2 MR. ARNWINE: Just to confirm, a no means 9  
3 that he was not provided --

4 CHAIRMAN DERRYBERRY: Reasonable  
5 accommodation, correct.

6 MR. ARNWINE: Yes. He was -- I got to -- 1

7 CHAIRMAN DERRYBERRY: So the question is  
8 pursuant to Tennessee law, this vote will be carried  
9 by simple majority. Do you believe the petitioner  
10 established by preponderance of the evidence that  
11 the respondent denied or unreasonably delayed the  
12 agreed parties from reasonable accommodation?

13 MR. ARNWINE: No. 7

14 CHAIRMAN DERRYBERRY: Commissioner  
15 Behler.

16 MS. BEHLER: No.

17 CHAIRMAN DERRYBERRY: Commissioner  
18 Crafton.

19 COMMISSIONER CRAFTON: No.

20 CHAIRMAN DERRYBERRY: Commissioner  
21 Crider.

22 COMMISSIONER CRIDER: No.

23 CHAIRMAN DERRYBERRY: Commissioner  
24 Hayes.

25 COMMISSIONER HAYES: Can you clarify? A

1 yes means that the reasonable accommodations was  
2 denied; and the no means reasonable accommodation  
3 was not denied. I'm sorry but I am like  
4 Commissioner Arnwine, I was a little confused by 5  
5 the --

6 CHAIRMAN DERRYBERRY: The question was  
7 do you believe the petitioner established by  
8 preponderance of the evidence that the respondent  
9 denied or unreasonably delayed the agreed party's  
10 request for reasonable accommodations, and that's as  
11 to Colins.

12 CHAIRMAN DERRYBERRY: Yes, as to Colins.  
13 Houston. Commissioner Houston.

14 COMMISSIONER HOUSTON: Yes.

15 CHAIRMAN DERRYBERRY: Commissioner  
16 Martin.

17 COMMISSIONER MARTIN: Yes.

18 CHAIRMAN DERRYBERRY: Commissioner  
19 Sloss.

20 COMMISSIONER SLOSS: And Madame Chair, I  
21 wanted to make sure that the commissioners who voted  
22 earlier, I wanted to make sure that they understood  
23 as Commissioner Hayes and everyone else, how they  
24 were voting because this is a little bit confusing  
25 since we did separate them. My vote is, yes, as to

1 Colins; and I think in fairness we ought to go back  
2 to the other commissioners and make sure they  
3 understood as well.

4 CHAIRMAN DERRYBERRY: Okay. Let me  
5 restate the question one more time, so do you  
6 believe that the petitioner established by  
7 preponderance of the evidence that the respondent  
8 denied or unreasonably delayed the agreed party's  
9 request for reasonable accommodations in violation  
10 of TCA 4-21-601(b)(2)(b) based on the evidence  
11 before you? And this is for Mr. Colins who has the  
12 disability.

13 Commissioner Arnwine. 1

14 MR. ARNWINE: Yes. 2

15 CHAIRMAN DERRYBERRY: Yes, okay.  
16 Commissioner Behler.

17 MS. BEHLER: Yes.

18 CHAIRMAN DERRYBERRY: Commissioner  
19 Crafton.

20 COMMISSIONER CRAFTON: Yes.

21 CHAIRMAN DERRYBERRY: Commissioner  
22 Crider.

23 COMMISSIONER CRIDER: Not based on what  
24 I read, no.

25 CHAIRMAN DERRYBERRY: Okay.

1 Commissioner Hayes.

2 COMMISSIONER HAYES: Yes.

3 CHAIRMAN DERRYBERRY: Commissioner

4 Houston.

5 COMMISSIONER HOUSTON: Yes.

6 CHAIRMAN DERRYBERRY: Okay.

7 Commissioner Martin.

8 COMMISSIONER MARTIN: Yes.

9 CHAIRMAN DERRYBERRY: Commissioner

10 Sloss.

11 COMMISSIONER SLOSS: Yes?

12 CHAIRMAN DERRYBERRY: And the Chair,

13 Derryberry, also votes yes. So we have one no and  
14 we have eight yeses on whether or not Mr. Colins was  
15 denied reasonable accommodation. We will now vote  
16 on whether Mr. Matthews was denied reasonable  
17 accommodation.

18 COMMISSIONER SLOSS: I would like for  
19 counsel Venick -- I know he stated once, but before  
20 we vote on the second one, have him state again his  
21 rationale of what should be included.

22 CHAIRMAN DERRYBERRY: Thank you.

23 MR. VENICK: My rationale is there is  
24 authority in other areas that assert that  
25 individuals who bear some relationship to each other

1 can equally be subject to discriminatory action.  
2 And so in this instance these individuals, though  
3 not blood related, were related by virtue of being  
4 roommates. They had some legal relationship between  
5 each other and so that would be a reason for taking  
6 the position that an action discriminatory towards  
7 one would be discriminatory towards the other.

8 CHAIRMAN DERRYBERRY: Anymore questions  
9 for our legal counsel?

10 COMMISSIONER CRIDER: I have a -- what I  
11 failed to see, Mr. Venick, was there was, in fact,  
12 some legal relationship between the two individuals,  
13 and I realize the legal relationship is very broad  
14 which is fine, but -- I didn't read anything other  
15 than the fact that they had resided in the same  
16 apartment for -- or the same location, same  
17 residence for a fair amount of time. I don't think  
18 there's any information to be drawn from that and I  
19 didn't see any direct testimony. And if I am over  
20 looking something, I sure do want to be corrected  
21 about that.

22 MR. VENICK: Well, I think certainly the  
23 commission could make that decision in deciding this  
24 vote in this particular matter. If the commission  
25 does not determine that there's nothing in the



1 record that establishes some kind of legal  
2 relationship, which would impede the rights  
3 according to Mr. Colins and Mr. Matthews. And then  
4 this is really essentially a support of its motion  
5 to provide the parties -- it should make that as far  
6 as of their report --

7 MS. BEHLER: This is Commissioner  
8 Behler. There are multiple references in these  
9 1,100 pages of them being partners not just  
10 roommates. I know I referenced several times them  
11 to be partners, and to me that established more of a  
12 relationship than just two people cohabiting as  
13 roommates.

14 COMMISSIONER CRIDER: This is  
15 Commissioner Crider. I would remind folks that they  
16 said a lot of things in their testimony when  
17 pushed -- or not pushed, but when asked about, later  
18 that they couldn't substantiate those things.

19 MR. VENICK: To the extent that this was  
20 an issue not necessarily addressed by the  
21 administrative law judge, below it raises different  
22 legal issues. The commission could also decide to  
23 remand for further consideration of whether or not  
24 the relationship between Mr. Matthews and Mr. Colins  
25 was sufficient to give rise of the implementation of

1 rights of Mr. Colins and Mr. Matthews.

2 CHAIRMAN DERRYBERRY: Would anyone like  
3 to make that motion?

4 COMMISSIONER SLOSS: I think there's too  
5 many questions and disagreements as to what the  
6 relationship is. I mean, I know there was a  
7 previous vote to go ahead and proceed, but I  
8 think -- I think it would be prudent at this point  
9 to remand it back to the ALJ just to clear up these  
10 issues -- this is Commissioner Sloss.

11 COMMISSIONER CRAFTON: If you would  
12 indulge me one question before we do that I would  
13 like -- would you mind if I asked the attorney one  
14 question?

15 COMMISSIONER SLOSS: Go ahead.

16 COMMISSIONER CRAFTON: So let's say --  
17 say for example that Mr. Colins and Mr. Matthews are  
18 legal partners. Then my question is, let's  
19 hypothetically say that instead of Mr. Colins and  
20 Mr. Matthews it's Mr. Crafton and Ms. Crafton and we  
21 are the folks in this case. Would I and my wife  
22 both get to ask for individual damages or would it  
23 just be to the family unit?

24 MR. VENICK: Well, in the instance of  
25 whether or not you would both be entitled to

1 damages, yes. You know, both would be entitled to  
2 damages based on whatever injuries you respectively  
3 suffered. For example, in that instance it could be  
4 that one individual suffered a different kind of  
5 emotional distress -- injury, than the other did and  
6 that there would be different damages awarded to the  
7 individuals.

8 As far as I know, unless a claim for  
9 damages is brought in a combined capacity -- and I'm  
10 not aware of husbands and wives being able to sue as  
11 a marital unit, I think the damages as allocated  
12 would be allocated based on individuals rather than  
13 a combined unit.

14 COMMISSIONER CRAFTON: Thank you. I  
15 support Commissioner Sloss's motion.

16 COMMISSIONER HOUSTON: I have a question  
17 as well, as we're looking at the four questions  
18 before us, the second question asked about deals  
19 with hostile living. So the question as to living,  
20 do you have to have a legally binding association to  
21 experience a hostile living environment?

22 MR. VENICK: I think that is the intent  
23 of the motion made by Commissioner Sloss, and that  
24 is as a result of the commission's action, a legal  
25 issue has been raised as to the relationship or the

1 nature of the relationship between Mr. Colins and  
2 Mr. Matthews, and whether that gives rise to the  
3 implementation of rights as far as Mr. Colins and  
4 Mr. Matthews. The administrative law judge was not  
5 faced with that question. Therefore there was no  
6 proof taken on that, and I think that was the intent  
7 of the motion that was made to remand.

8 CHAIRMAN DERRYBERRY: Are there other  
9 comments or questions?

10 COMMISSIONER CRIDER: Commissioner  
11 Houston brought up a good point or issue about the  
12 hostile deal and of course again using their words  
13 against them, so to speak, have you ever had any  
14 conversation with Mr. Billingsley about the  
15 maintenance issue?

16 No.

17 And if you keep reading -- I'm not going  
18 to do that to you, but reading it's no, no, no.  
19 They cannot substantiate the claims that they are  
20 making. We as a commission I feel like tend to  
21 discount what the respondent says and tend to  
22 believe more often what the plaintiff says.

23 COMMISSIONER MARTIN: I'm having some  
24 confusion around this and sounds like that whether  
25 they have some kind of legal relationship is the

1 key. So I agree with Commissioner Sloss. I think  
2 we just need to send this back to establish, was  
3 there some type of legal relationship, because  
4 listening to counsel that seems to have some type of  
5 weight on how this -- we should proceed.

6 CHAIRMAN DERRYBERRY: Thank you,  
7 commissioner Martin. Would any other commissioners  
8 like to weigh in on this before we proceed? Hearing  
9 none, the question --

10 COMMISSIONER HAYES: If we're going to  
11 remand this to the administrative law judge, and I  
12 do agree that's a good idea at this point without  
13 having to do that more times. As many of you all  
14 know I'm a lawyer and I'm looking at this lawyer  
15 bill in this case with an attorney fee approval of  
16 over \$57,000. I would -- I would -- sure would like  
17 to see the administrative law judge -- as to whether  
18 or not ordering \$450 an hour in attorney fees is a  
19 fair rate for this particular kind of undertaking.  
20 And it may well be, but it might not be either. I  
21 don't know. It's not a specific finding. The judge  
22 just approved the fees as are presented and I think  
23 it's worth asking the judge to look at that on  
24 remand as well.

25 CHAIRMAN DERRYBERRY: So would you like

1 to modify your motion?

2 COMMISSIONER HAYES: I move to amend  
3 Mr. Sloss's motion to add the attorney fees request  
4 for findings on the attorney fees.

5 CHAIRMAN DERRYBERRY: Yes.

6 COMMISSIONER HAYES: Well, that's what I  
7 have done then.

8 COMMISSIONER SLOSS: And Mr. Sloss  
9 seconds that motion.

10 CHAIRMAN DERRYBERRY: So the question  
11 before the commission now is, would I like to remand  
12 this back to the administrative law judge to  
13 determine: One, the status of the relationship  
14 between the two parties; and, two, the issue of  
15 attorney fees, so it's a yes-or-no question.

16 MS. BEHLER: As to the first question,  
17 the issue really is to clarify the relationship of  
18 the parties and what impact that has on the claim  
19 made of denial of reasonable accommodation and  
20 retaliation just so those are together.

21 CHAIRMAN DERRYBERRY: Correct, thank you  
22 for that, Behler.

23 MS. BEHLER: I would think it would be  
24 prudent that we make sure that we have every  
25 question that we want the administrative law judge

1 to address. We have two points. Are there any  
2 other issues that need clarification? If we are  
3 going to send it or remand it back to the  
4 administrative law judge we need to make sure we  
5 have all of our questions answered.

6 CHAIRMAN DERRYBERRY: And sounds like  
7 you may have a question, Commissioner Behler.

8 MS. BEHLER: No, I don't. I just don't  
9 want to piecemeal it. If we have questions, let's  
10 get them all out and address it at one time. I  
11 don't want to waste the administrative law judge's  
12 time when we send it back. I'm in total concurrence  
13 with Commissioner Hayes. That legal bill caught my  
14 attention too, and I don't want to keep the meter  
15 running if we don't need to. Let's make it short  
16 and concise and get those items ruled on.

17 CHAIRMAN DERRYBERRY: Absolutely, and I  
18 appreciate those comments.

19 COMMISSIONER SLOSS: I would like to  
20 address this. This is just a question that I  
21 thought if any of the attorney -- well,  
22 Attorney Venick, you can answer this for me. Is it  
23 unusual for the legal bills or for the attorney's  
24 fees that's awarded to be higher for the attorney  
25 than it is for the litigants in this case?

1                   MR. VENICK: Well, unfortunately, I'm  
2 sure any of the attorneys along with the commission  
3 of state -- that happens quite often. Many times  
4 there are claims that are brought under various  
5 statutes, and the amount of damages awarded are not  
6 as high as the amount of attorney fees that are  
7 generated for the claim that has been successful.

8                   I would suggest to you that there may be  
9 another question to you to consider on remand, and  
10 that is to the extent that the commission had  
11 decided to remand with respect to the separating  
12 Mr. Colins and Mr. Matthews, you might also ask that  
13 the administrative law judge determine whether or  
14 not it is possible to allocate the award of attorney  
15 fees between the parties. It may not be possible  
16 given that they both were claimants, but I think it  
17 would be a question that might be appropriate given  
18 the direction of the commission with discussion this  
19 morning.

20                   CHAIRMAN DERRYBERRY: Perfect. We are  
21 asking -- is the question, do you wish to remand  
22 this to the administrative law judge, one, on  
23 clarification regarding the partner status; and  
24 separating the two? Two, on the amount of attorney  
25 fees and dividing those fees? Is there anything



1 else that we wish to add into the motion?

2 COMMISSIONER CRAFTON: I have one  
3 question for the attorney. The commission has to  
4 write to readjust attorney fees if we think they are  
5 too much. Can we make a motion to lower those fees  
6 ourselves? Can you do that?

7 MR. VENICK: I think you can do that. I  
8 think the difficulty would be that unless you have  
9 the actual record upon which the attorney fees have  
10 been awarded, I'm not so sure how you would make  
11 finding of facts and conclusion of law with respect  
12 to the award of attorney fees. When attorney fees  
13 are considered by a judge, there are two  
14 considerations that go into play. The first is  
15 whether or not the amount of the time spent was  
16 reasonable given the nature of the case. The second  
17 issue referred to earlier is whether or not the rate  
18 that's being awarded to the attorney is reasonable  
19 given that attorney's experience and the complexity  
20 of the legal issues involved in the case. So those  
21 are both considerations, and I think that if you  
22 were to modify the attorney fees, I think you would  
23 have to have some factual basis upon which to do  
24 that, which I can't recall if there is in the record  
25 right now or not.

1                   COMMISSIONER CRIDER: We're trying to  
2 keep it in house and see if we can handle this or  
3 send it back where it came from. I'm obligated to  
4 explain why I felt that it didn't -- that this was  
5 handled decently and lawful. Could any of you tell  
6 me why they were denied with accommodation before I  
7 vote?

8                   CHAIRMAN DERRYBERRY: Does anyone wish  
9 to answer Mr. Crider's question?

10                  COMMISSIONER CRIDER: And then I will  
11 tell you why I -- you can quote law to me. You can  
12 quote a brief. Okay, I'm done.

13                  CHAIRMAN DERRYBERRY: Okay. Would  
14 anyone like to answer the question?

15                  COMMISSIONER SLOSS: So as to make sure  
16 we have got -- in the spirit of  
17 Commissioner Behler's comment, I know there were  
18 three items. The third item that Attorney Venick  
19 brought up, for the sake of clarity and to make sure  
20 all the legaleses is not just on you, Mr. Venick,  
21 based on our conversation could you -- before we  
22 make this vote, state all of the three questions  
23 including the one that you added so everybody is  
24 clear on what we are voting on.

25                  MR. VENICK: I'll give it a shot. I

1 think the first question is whether or not the legal  
2 relationship between Mr. Colins and Mr. Matthews  
3 give rise to a claim of associational claim on  
4 behalf of Mr. Matthews who is not the person with  
5 the disability.

6           The second question is whether or not --  
7 well, actually the second and third is with regards  
8 to the amount of attorney fees that were awarded;  
9 and the second was whether or not the \$450 per hour  
10 was reasonable given the complexity of the case and  
11 the time spent; and the third question is, to the  
12 extent that there is no associational claim, can the  
13 administrative law judge allocate the award of  
14 attorney fees between that awarded for Mr. Colins  
15 and that awarded for Mr. Matthews.

16           I call for the question, Madame Chair.

17           CHAIRMAN DERRYBERRY: Commissioner  
18 Arnwine. 7

19           MR. ARNWINE: Yes. 7

20           CHAIRMAN DERRYBERRY: Commissioner  
21 Behler.

22           MS. BEHLER: Yes.

23           CHAIRMAN DERRYBERRY: Commissioner  
24 Crafton.

25           COMMISSIONER CRAFTON: Yes.

1 CHAIRMAN DERRYBERRY: Commissioner  
2 Crider.

3 COMMISSIONER CRIDER: Abstain.

4 CHAIRMAN DERRYBERRY: Commissioner  
5 Hayes.

6 COMMISSIONER HAYES: Yes.

7 CHAIRMAN DERRYBERRY: Commissioner  
8 Houston.

9 COMMISSIONER HOUSTON: Yes.

10 CHAIRMAN DERRYBERRY: Commissioner  
11 martin.

12 COMMISSIONER MARTIN: Yes.

13 CHAIRMAN DERRYBERRY: Commissioner  
14 Sloss.

15 COMMISSIONER SLOSS: Yes.

16 CHAIRMAN DERRYBERRY: The chair votes  
17 yes. And the case has been remanded back to the  
18 administrative law judge for consideration. Thank  
19 you, very much. This concludes this particular  
20 case.

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STATE OF TENNESSEE

COUNTY OF RUTHERFORD --

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