

U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC BUSINESS MEETING

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TUESDAY, JUNE 26, 2018

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The Commission convened via teleconference at 1:01 p.m., Catherine E. Lhamon, Chair, presiding.

PRESENT:

CATHERINE E. LHAMON, Chair

PATRICIA TIMMONS-GOODSON, Vice Chair*

DEBO P. ADEGBILE, Commissioner

DAVID KLADNEY, Commissioner*

KAREN K. NARASAKI, Commissioner

MICHAEL YAKI, Commissioner*

MAURO MORALES, Staff Director

MAUREEN RUDOLPH, General Counsel

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STAFF PRESENT:

EVELYN BOHOR*

KATHY CULLITON-GONZALEZ

BARBARA DELAVIEZ*

PAMELA DUNSTON, Chief, ASCD*

ALFREDA GREENE*

TINALOUISE MARTIN*

DAVID MUSSATT, Chief, RPCU*

BRIAN WALCH

COMMISSIONER ASSISTANTS PRESENT:

SHERYL COZART

JASON LAGRIA

CARISSA MULDER

AMY ROYCE

RUKKU SINGLA

ALISON SOMIN

IRENA VIDULOVIC

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P-R-O-C-E-E-D-I-N-G-S

(1:01 p.m.)

CHAIR LHAMON: This meeting of the U.S. Commission on Civil Rights comes to order at 1:01 p.m. Eastern Time on June 26, 2018.

This meeting takes place over the phone.

I am Chair Catherine Lhamon.

I'd like to confirm that each of the Commissioners is on the line, so I'll take a roll call here at the outset. And please say present when I say your name. Vice Chair Timmons-Goodson? Commissioner Adegbile?

COMMISSIONER ADEGBILE: Present.

CHAIR LHAMON: Commissioner -- I understand that Commissioner Heriot had a family conflict develop and so will not be on the line. Just confirming by sound that she is not.

Commissioner Kirsanow? Commissioner Kladney?

COMMISSIONER KLADNEY: Yes. Present.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Present.

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: I'm here.

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1 CHAIR LHAMON: Thank you. Based on
2 that, a quorum of the Commissioners is present.

3 Is the court reporter present?

4 COURT REPORTER: I am present.

5 CHAIR LHAMON: Thank you. Is the Staff
6 Director present?

7 MR. MORALES: Yes, I am.

8 CHAIR LHAMON: Thank you. The meeting
9 shall now come to order.

10 **I. APPROVAL OF AGENDA**

11 CHAIR LHAMON: Is there a motion to
12 approve the agenda for this business meeting?

13 COMMISSIONER NARASAKI: Commissioner
14 Narasaki. So moved.

15 CHAIR LHAMON: Thank you. Is there a
16 second?

17 COMMISSIONER ADEGBILE: Second.

18 CHAIR LHAMON: Thank you. Are there
19 any amendments?

20 COMMISSIONER YAKI: Commissioner Yaki
21 here.

22 CHAIR LHAMON: Go ahead.

23 COMMISSIONER YAKI: I would like to
24 amend the agenda to include a motion to reopen the
25 2015 Immigration Detention Report for follow up

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1 regarding the detention of children, to authorize
2 the appointment of a Discovery Subcommittee, and to
3 authorize the issuance of subpoenas.

4 CHAIR LHAMON: Thank you. Is there a
5 second?

6 COMMISSIONER NARASAKI: Commissioner
7 Narasaki seconds.

8 CHAIR LHAMON: Thank you. Are there
9 any further amendments? Hearing none, let's vote
10 to approve the agenda as amended. All those in
11 favor, say aye.

12 (Chorus of ayes.)

13 CHAIR LHAMON: Any opposed? Any
14 abstentions? The motion passes unanimously.

15 II. PROGRAM PLANNING

16 CHAIR LHAMON: Our item -- our next
17 item is a discussion and vote on the Commission's
18 report titled An Assessment of Minority Voting
19 Rights Access in the United States. There will be
20 two votes. First, we will consider the report;
21 and, second, we will consider the findings and
22 recommendations.

23 To open up the floor for discussion, is
24 there a motion?

25 COMMISSIONER ADEGBILE: So moved.

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1 COMMISSIONER KLADNEY: Second.
2 Kladney.

3 CHAIR LHAMON: I believe Commissioner
4 Adegbile moved to approve the report. I heard
5 Commissioner Kladney second. So I'll make a few
6 points to start us off, and then an amendment to
7 begin our discussion.

8 First, I thank Commissioners Adegbile
9 and Yaki for their leadership in initiating this
10 project last year. Voting rights were at the core
11 of the basis for Congress establishing this
12 Commission in 1957, and I am both proud and
13 grateful to see us return, as the Commission has
14 done many times over the years, to this fundamental
15 question of equal access to our democracy.

16 This August we will mark the 53rd
17 anniversary of the Voting Rights Act of 1965, and
18 yesterday marked the fifth anniversary of the
19 Supreme Court's decision in Shelby County.

20 While our nation has made remarkable
21 strides in the 53 years since 1965, this report
22 does an exhaustive job of documenting the state of
23 voter access today and makes clear that we, as a
24 nation, including Congress, still have work left to
25 do to ensure equal access to the franchise for

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1 which so many have fought and died.

2 I thank our staff, particularly
3 Katherine Culliton-Gonzalez and LaShonda Brenson,
4 as well as all of the other members of our staff
5 who pitched in during the development of this
6 project, planning the briefing in North Carolina,
7 and assisting with research and further refinement
8 of the draft over the last several months.

9 Thanks to all of their efforts, we
10 today consider a voluminous, intensely researched
11 report, just over four months after we traveled
12 down to North Carolina to hear from various experts
13 on this important issue.

14 The amendment I'd like to offer is to
15 change references to the Napa County language
16 access case from consent decree to out-of-court
17 agreement. I noted on follow up from the DOJ
18 letter that we refer to that case as a consent
19 decree, but it is in fact an out-of-court
20 agreement.

21 There are three references to that
22 amendment in the text. I'm going to give you the
23 page numbers according to the clean text circulated
24 from Commissioner Adegbile's special assistant
25 yesterday. They're at page 253, footnote 1447;

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1 page 254, footnote 1451; and page 255, in the first
2 full paragraph.

3 Do I have a second for that amendment?

4 COMMISSIONER YAKI: Second.

5 COMMISSIONER ADEGBILE: Second.

6 CHAIR LHAMON: Thank you. Just a
7 reminder for my fellow Commissioners that we need
8 to say our names, so that the court reporter knows
9 who we are for the transcript. I think the second
10 came from Commissioner Kladney; is that correct?

11 COMMISSIONER KLADNEY: No. I think it
12 was Adegbile, but you can use my name. It's fine.

13 COMMISSIONER YAKI: Actually, it was
14 Commissioner Yaki, but I'll defer to Commissioner
15 Kladney.

16 CHAIR LHAMON: Okay. Well, I'm going
17 to go with Commissioner Yaki as the one who said
18 it, and thank you.

19 Is there any other discussion or
20 amendments?

21 COMMISSIONER ADEGBILE: Madam Chair,
22 Commissioner Adegbile here.

23 CHAIR LHAMON: Go ahead.

24 COMMISSIONER ADEGBILE: I just wanted
25 to join you in your statement about the importance

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1 of this process and how important it has been to
2 the history and good work of the Civil Rights
3 Commission over the course of our existence.

4 In particular, I think this report does
5 a very good job of laying out something that
6 sometimes folks have difficulty holding in their
7 mind, which is the progress that we have made under
8 the Voting Rights Act is a wonderful tribute to our
9 constitutional system and to our federal civil
10 rights statutes.

11 And some people interpret that progress
12 as a desire to stop and be satisfied with where we
13 are, but I think at its core the Voting Rights Act
14 has embraced, very importantly for the nation, a
15 minority inclusion principle that has become a
16 central feature of our democracy.

17 And I would suggest that one of the
18 great lessons of the Voting Rights Act and its
19 success is that success invites more success rather
20 than pausing on progress and taking the risk of
21 moving backward.

22 And so I think your support has laid
23 out for us in important ways that we have come a
24 great distance and made much progress in the area
25 of voting, as a result of the Voting Rights Act and

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1 the very important enforcement efforts of DOJ and
2 private attorneys general.

3 But I think the report lays out an
4 equally important and compelling story that there
5 is more work to do, and that the Voting Rights Act
6 needs to remain a central and fully effective
7 feature of encouraging future progress.

8 And so with that, I wanted to add my
9 thanks to the extraordinary efforts of our staff,
10 of OCRE, of Kathy Culliton in her first effort with
11 a report of this Commission, and LaShonda, who has
12 done extraordinary work, and the SAs, add my thanks
13 to the SAs on a bipartisan basis, all of whom have
14 pitched in to work on the citations of this
15 voluminous report.

16 And I just think that it has been an
17 extraordinary and focused effort. It is great that
18 we are poised to have it move out on the schedule,
19 and I just want to thank the entire Commission for
20 the effort.

21 I recognize that doing a field briefing
22 requires additional resources and organization. It
23 went off without a hitch, and I thank Pam and the
24 entire staff that traveled with us to Raleigh for
25 really showing the Commission at its best.

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1 And so I'm grateful for the effort, I
2 look forward to the vote, and I thank each and
3 every one of you for your efforts. And to Irena
4 Vidulovic, who has put in extraordinary efforts, I
5 pay special thanks.

6 CHAIR LHAMON: Thank you. Is there any
7 other discussion or any other amendments?

8 COMMISSIONER NARASAKI: This is
9 Commissioner Narasaki. I would like to add my
10 thanks and note the particular importance of this
11 report. It is incredibly well-researched, as has
12 been noted, and I very much appreciate the fact
13 that we also made sure that in addition to
14 examining the challenges that minority voters are
15 facing that we also look at voters with
16 disabilities. I think that's an important
17 contribution. So I want to note that, and thank
18 the Commission and the staff.

19 CHAIR LHAMON: Thank you. Hearing no
20 further discussion and no further amendments, I'll
21 call the question and take a roll call vote.
22 Commissioner Adegbile, how do you vote?

23 COMMISSIONER ADEGBILE: Aye.

24 CHAIR LHAMON: I understand
25 Commissioner Heriot is not on the line. I

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1 understand Commissioner Kirsanow is not on the
2 line. Commissioner Kladney, how do you vote?

3 COMMISSIONER KLADNEY: Yes.

4 CHAIR LHAMON: Commissioner Narasaki?

5 COMMISSIONER NARASAKI: Yes.

6 CHAIR LHAMON: Commissioner Yaki?

7 COMMISSIONER YAKI: Aye.

8 CHAIR LHAMON: And I believe the Vice
9 Chair has been on the line, but we couldn't hear
10 her? Vice Chair, are you on? And, if so, how do
11 you vote? If you are on the line, we still can't
12 hear you.

13 I vote yes. The motion passes
14 unanimously.

15 Next, we will consider the findings and
16 recommendations for the report.

17 VICE CHAIR TIMMONS-GOODSON: This is
18 Pat. I've been on the wrong line.

19 CHAIR LHAMON: Welcome, Vice Chair.

20 VICE CHAIR TIMMONS-GOODSON: Thank you.

21 COMMISSIONER YAKI: Madam Chair, I
22 would like to reopen the vote.

23 CHAIR LHAMON: So we were just voting
24 about whether to approve the Voting Rights Report,
25 as amended, and I had offered an amendment to

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1 correct three places in the report where the report
2 now refers to the Napa County language access case
3 as a consent decree, and I'm offering an amendment
4 to correct those references to an out-of-court
5 agreement, responsive to the DOJ letter to the
6 Commission.

7 I have heard a motion to reopen the
8 vote from Commissioner Yaki. I seconded that
9 motion. And so we will go through our vote again,
10 to be able to include the Vice Chair, who has been
11 on the line.

12 COMMISSIONER ADEGBILE: Madam Chair,
13 this is Commissioner Adegbile. Can I just note
14 that the motion is to vote on the version of the
15 report that was sent yesterday by my special
16 assistant, Irena Vidulovic, subject to the
17 amendments that you have offered this morning.

18 CHAIR LHAMON: Thank you for the
19 clarification. That is correct.

20 So, Commissioner Adegbile, how do you
21 vote?

22 COMMISSIONER ADEGBILE: Aye.

23 CHAIR LHAMON: I understand
24 Commissioners Heriot and Kirsanow are not on the
25 line. Commissioner Kladney, how do you vote?

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1 COMMISSIONER KLADNEY: Yes.

2 CHAIR LHAMON: Commissioner Narasaki?

3 COMMISSIONER NARASAKI: Yes.

4 CHAIR LHAMON: Commissioner Yaki?

5 COMMISSIONER YAKI: Aye.

6 CHAIR LHAMON: And Vice Chair Timmons-
7 Goodson?

8 VICE CHAIR TIMMONS-GOODSON: Yes.

9 CHAIR LHAMON: And I vote yes. So the
10 motion passes unanimously.

11 Next, we will consider the findings and
12 recommendations for the report. So I open up the
13 floor for discussion. Is there a motion?

14 COMMISSIONER YAKI: So moved.

15 COMMISSIONER ADEGBILE: Madam Chair,
16 this is Commissioner Adegbile. I move that we
17 adopt the findings and recommendations as
18 circulated by my assistant, Irena Vidolovic,
19 yesterday, Monday, June 25th.

20 CHAIR LHAMON: Thank you.

21 COMMISSIONER NARASAKI: Commissioner
22 Narasaki seconds.

23 CHAIR LHAMON: Thank you. And,
24 Commissioner Yaki, I heard you were also moving, so
25 we will just move forward. Thank you.

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1 Is there any discussion about these
2 findings and recommendations? Hearing none, I'll
3 call the question and take a roll call vote.
4 Commissioner Adegbile, how do you vote?

5 COMMISSIONER ADEGBILE: Aye.

6 CHAIR LHAMON: I understand
7 Commissioners Heriot and Kirsanow are not on the
8 line. Commissioner Kladney, how do you vote?

9 COMMISSIONER KLADNEY: Yes.

10 CHAIR LHAMON: Commissioner Narasaki?

11 COMMISSIONER NARASAKI: Yes.

12 CHAIR LHAMON: Commissioner Yaki?

13 COMMISSIONER YAKI: Aye.

14 CHAIR LHAMON: Vice Chair Timmons-
15 Goodson?

16 VICE CHAIR TIMMONS-GOODSON: Yes.

17 CHAIR LHAMON: And I vote yes. The
18 motion passes unanimously.

19 Thank you all. I'll note that with the
20 adoption of the report, and the findings and
21 recommendations, the clock now begins ticking with
22 respect to the deadlines for statements and
23 rebuttals. The deadline for statements will be
24 July 26th, and the deadline for rebuttals will be
25 August 27, as the 26th falls on a weekend.

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1 If a Commissioner intends to file a
2 surrebuttal, notice will need to be given by
3 Tuesday, September 4, as the 3rd falls on Labor
4 Day. And the surrebuttal will be due on September
5 11th.

6 We will now move to our amended agenda
7 item, a motion from Commissioner Yaki.
8 Commissioner Yaki, could you please present your
9 motion?

10 COMMISSIONER YAKI: Thank you very
11 much, Madam Chair. Colleagues, over the past few
12 weeks, the administration has engaged in some
13 unprecedented actions with regard to the treatment
14 of families presenting themselves at the border,
15 beginning with a zero tolerance policy that
16 required prosecution of anyone who presented
17 themselves at the border without proper
18 documentation, and the fallout from that policy was
19 the separation of families, with the children being
20 sent to parts elsewhere in the United States away
21 from their families, which has not been the policy
22 of the United States, with regard to any
23 prosecution of families in prior administrations or
24 prior years.

25 This motion is to reopen the 2015

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1 Immigration Retention Report for the purposes of
2 following up on the issue of children separation
3 and family detention. This is a motion in four
4 parts.

5 First, that pursuant to general
6 authority, as well as AI 1-6, Section 21, the
7 authority to reopen the 2015 statutory report for
8 the purposes of obtaining additional information
9 regarding the issue of retention of undocumented
10 immigrant children and families.

11 Two, pursuant to our statutory
12 authority and Regulation AIs, the Chair shall
13 appoint a subcommittee for the purpose of discovery
14 associated with the follow up to a report.

15 Three, pursuant to our statutory
16 authority and regulations, pre-authorize the Chair
17 to issue such subpoenas as are necessary for the
18 purpose of discovery associated with the follow up
19 to a report.

20 And, four, that the Chair of the
21 subcommittee share it with the staff director to
22 ensure that adequate staff time and resources are
23 available and allocated to this.

24 Colleagues, this is not meant to be a
25 long, drawn-out proceeding. This is meant to do

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1 something that the Commission has not done in quite
2 a bit, which is to see if it can pivot quickly and
3 work on an issue that is very present and has
4 immediate urgency in terms of attempting to see
5 what resources we can bring to bear in terms of the
6 dialogue and resolution regarding the:
7 a) reunification of children separated from their
8 families; and b) the policies and procedures that
9 led to that as well as the family detention
10 standards that are attempting to be modified and
11 applied to incoming families presenting themselves
12 at the border.

13 I want to thank all of you for your
14 thoughts and good suggestions with regard to this,
15 and I would love to ask for your support.

16 CHAIR LHAMON: Thank you. I'll open
17 the floor for discussion. Is there a motion to
18 approve the motion?

19 COMMISSIONER NARASAKI: This is
20 Commissioner Narasaki. So moved.

21 (Simultaneous speaking)

22 CHAIR LHAMON: I heard Commissioner
23 Narasaki move, and I hear Commissioner Kladney
24 seconding. So any discussion of the motion?

25 MR. MORALES: Madam Chair? Staff

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1 Director --

2 CHAIR LHAMON: Go ahead.

3 MR. MORALES: -- Mauro Morales, if I
4 may make a comment?

5 CHAIR LHAMON: Go ahead, Staff
6 Director.

7 MR. MORALES: Thank you, Madam Chair.
8 I just wanted Commissioners to know that I support
9 their efforts to bring attention to the crisis on
10 the border concerning the separation of children
11 and families.

12 However, my fiduciary duty as Staff
13 Director requires me to remind Commissioners that
14 we have limited financial and personnel resources.
15 The reopening of the 2015 report with new and
16 unanticipated resource demands could potentially
17 impact current projects and reports underway.

18 Nevertheless, I look forward to working
19 with Commissioners in their renewed effort to
20 examine this issue.

21 Thank you.

22 CHAIR LHAMON: Thank you. Commissioner
23 Narasaki, I think you were wanting to speak?

24 COMMISSIONER NARASAKI: Yes. I want to
25 thank Commissioner Yaki for his leadership and

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1 making the recommendation that we reopen the report
2 and examine what is going on.

3 The initial report, which I had to
4 recuse myself from at the time, had some very
5 disturbing findings with regard to the detention of
6 women and children. And we sent reports that have
7 been coming out because of the -- what I consider
8 to be a manufactured crisis.

9 This is not a crisis that had to
10 happen, but it is of significant concern that it
11 has, and that in fact continued reports are coming
12 out about the lack of sufficient planning or being
13 able to now reunite these children with their
14 parents, and also my concern that detaining --
15 solving the problem of reuniting the kids with
16 their families by simply detaining them all
17 together for long periods of time is not in fact an
18 appropriate solution.

19 Many experts from the children
20 community and the medical community have documented
21 the incredible damage that detention does to such
22 children. And I have noted before publicly that,
23 as someone whose parents were interned when they
24 were teenagers, I can tell you that that has very
25 lasting damage, even for teenagers, much less for

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1 children.

2 So I very much think this is very
3 important that we be mindful of our Staff
4 Director's admonition that we be careful in terms
5 of our resources, but I think if there is ever a
6 crisis that required the Commission to step up in
7 recent times, this is one of them. So I strongly
8 support it.

9 CHAIR LHAMON: Thank you.

10 COMMISSIONER YAKI: Madam Chair, I just
11 want to -- I just want to thank Commissioner
12 Narasaki for her heartfelt words. In no small
13 part, I think all of our outrage stems from the
14 remembrance of those internment camps in which my
15 father was, when a young boy, interned with his
16 family.

17 What is disturbing even more is the
18 fact that the rationale for the location of some of
19 these so-called large camps that they are
20 considering putting on military bases sounds very
21 much like the rationale for why and where they
22 situated the Japanese internment camps, out of the
23 area, in the desert, nowhere to run. These are
24 things that disturb me to my core as a human being.

25 And today, when the Supreme Court

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1 essentially recognizes the broad national security
2 rationale for the Muslim travel ban, that rests in
3 part on the shoulders of the Korematsu decision, it
4 makes it even more important I think for us to step
5 forward and do what we can to deal with this issue.

6 CHAIR LHAMON: Thank you. Is there any
7 further discussion? I will note as we are about to
8 take our vote that, as I mentioned at our last
9 business meeting, the Flores settlement agreement,
10 which governs some of the issues that we will take
11 up if we vote to take up this issue, is the result
12 of a case that my office, the National Center for
13 Youth Law, is counsel in.

14 That case, as I mentioned -- as I
15 mentioned in our last business meeting, is not my
16 case, and I have no substantive involvement in the
17 case. Following today's vote, if we do vote to
18 take up this topic, I just want to note that I will
19 recuse myself from the litigation to avoid any
20 appearance of conflict.

21 Okay. I'll call the question and take
22 a roll call vote. Commissioner Adegbile, how do
23 you vote?

24 COMMISSIONER ADEGBILE: Aye.

25 CHAIR LHAMON: I understand that

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1 Commissioners Heriot and Kirsanow are not on the
2 line. Commissioner Kladney, how do you vote?

3 COMMISSIONER KLADNEY: Yes.

4 CHAIR LHAMON: Commissioner Narasaki,
5 how do you vote?

6 COMMISSIONER NARASAKI: Yes.

7 CHAIR LHAMON: Commissioner Yaki, how
8 do you vote?

9 COMMISSIONER YAKI: Aye.

10 CHAIR LHAMON: Vice Chair Timmons-
11 Goodson?

12 VICE CHAIR TIMMONS-GOODSON: Yes.

13 CHAIR LHAMON: I vote yes. The motion
14 passes unanimously.

15 **III. ADJOURN MEETING**

16 CHAIR LHAMON: If there is nothing
17 further, I hereby adjourn this meeting at 1:25
18 Eastern Time. Oh.

19 COMMISSIONER ADEGBILE: Madam Chair,
20 this is Commissioner Adegbile. Forgive me, I have
21 one very brief point.

22 CHAIR LHAMON: Okay. Go ahead.

23 COMMISSIONER ADEGBILE: I just wanted
24 to add to my list of thanks on what I think the
25 entire Commission -- everybody supported the effort

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1 on the voting report that we voted on today.

2 And I also omitted to make specific
3 mention, through inadvertent, Maureen's
4 extraordinary efforts to help us get the report
5 done on this schedule. And so I wanted to add that
6 to my litany of thanks.

7 I thank the entire staff, but I also
8 wanted to acknowledge Maureen, Kathy and OCRE's
9 cooperation in making sure that the legal
10 sufficiency review of a very substantial and
11 lengthy report was able to be achieved in the
12 operative timeframe. So I'm grateful.

13 CHAIR LHAMON: Thank you. So now, if
14 there is nothing further, I adjourn our meeting at
15 1:25 p.m. Eastern Daylight Time. Thank you all.

16 (Whereupon, the above-entitled matter
17 went off the record at 1:25 p.m.)

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NEAL R. GROSS

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