

U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC BUSINESS MEETING

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FRIDAY, DECEMBER 20, 2019

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The Commission convened via
teleconference at 12:00 p.m., David Kladney,
Subcommittee Chair, presiding.

PRESENT:

DAVID KLADNEY, Commissioner

DEBO P. ADEGBILE, Commissioner

GAIL HERIOT, Commissioner

MAURO MORALES, Staff Director

MAUREEN RUDOLPH, General Counsel

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

2 12:01 p.m.

3 OPERATOR: Good day and welcome to the
4 United States Commission on Civil Rights Commission
5 telephonic meeting. At this time, it is now my
6 pleasure to turn today's call over to Chair
7 Kladney. Please go ahead, sir.

8 COMMISSIONER KLADNEY: Thank you very
9 much. This meeting of the subcommittee of the U.S.
10 Commission on Civil Rights comes to order at 12:00
11 p.m. eastern time, actually 12:02 on December 20,
12 2019.

13 This subcommittee was approved to
14 explore site visits for our subminimum wages
15 project. This meeting takes place over the phone.

16 I'm Commissioner David Kladney. I was
17 appointed by Chair Catherine Lhamon to chair this
18 subcommittee. Also serving on the subcommittee are
19 Commissioner Debo Adegbile, Commissioner Gail
20 Heriot, and Commission Chair Catherine Lhamon.

21 I'd like to confirm that each of the
22 commissioners on the subcommittee is on the line,
23 so I'll call the roll. I would note that Chair
24 Lhamon will not be joining us today. So,
25 Commissioner Adegbile, are you here?

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1 COMMISSIONER ADEGBILE: Here.

2 COMMISSIONER KLADNEY: Commissioner
3 Heriot?

4 COMMISSIONER HERIOT: I'm here, but,
5 you know, I object to calling this a subcommittee
6 since the commission is a commission. This is
7 actually a committee, not a subcommittee. I don't
8 know how we got started with the tradition of
9 calling things subcommittees.

10 COMMISSIONER KLADNEY: Perhaps you
11 could educate me after the meeting.

12 COMMISSIONER HERIOT: Sorry, I can't
13 help but have fun here.

14 COMMISSIONER KLADNEY: Yes, thank you.
15 Thank you, Commissioner Heriot, and thank you all.
16 Based on that, a quorum of the subcommittee is
17 present. Is the court reporter present?

18 COURT REPORTER: Yes, sir.

19 COMMISSIONER KLADNEY: Thank you, and
20 is the staff director present?

21 MR. MORALES: I am present.

22 COMMISSIONER KLADNEY: The meeting will
23 now come to order.

24 **I. APPROVAL OF AGENDA**

25 COMMISSIONER KLADNEY: Is there a

1 motion to approve the agenda for this business
2 meeting?

3 COMMISSIONER ADEGBILE: So moved,
4 Commissioner Adegbile.

5 COMMISSIONER HERIOT: Second.

6 COMMISSIONER KLADNEY: Thank you. Are
7 there any amendments to our agenda? If there are
8 no amendments, let's vote to approve the agenda.
9 All those in favor, say, "Aye."

10 (Chorus of aye.)

11 COMMISSIONER KLADNEY: Commissioner
12 Heriot? Okay, two vote aye. Hopefully
13 Commissioner Heriot is with us.

14 COMMISSIONER HERIOT: I'm here.

15 COMMISSIONER KLADNEY: Did you vote?

16 COMMISSIONER HERIOT: No, I did not. I
17 abstain. I haven't seen the agenda.

18 COMMISSIONER KLADNEY: Oh, okay, the
19 motion passes, two in favor, no opposed, and one
20 abstained.

21 The agenda pretty much calls for the
22 planning of the site visits to inform the
23 Commission's project on subminimum wages paid under
24 Section 14(c) of the Fair Labor Standards Act to
25 people with disabilities. That is the only item on

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1 the agenda for discussion and vote, is the proposed
2 framework to conduct site visits on our minimum
3 wages project.

4 To open our discussion, I move the
5 Commission adopt the proposed framework circulated
6 by my special assistant, Amy Royce, on Wednesday,
7 December 18th. Do I have a second for this motion?

8 COMMISSIONER ADEGBILE: Second,
9 Commissioner Adegbile seconds.

10 COMMISSIONER KLADNEY: Thank you.

11 **II. SUBCOMMITTEE MEETING**

12 COMMISSIONER KLADNEY: I'll begin our
13 discussion with a few points regarding the
14 proposal. I'm very grateful the Commission is
15 willing to commit the resources to conduct site
16 visits on this project. In particular, I appreciate
17 that OCRE has worked with my office to think
18 through the issues we anticipate. Thank you very
19 much.

20 I believe we will gain valuable insight
21 from visiting the physical spaces where 14(c)
22 programs are conducted and where alternatives for
23 14(c) are implemented.

24 We will have the opportunity to speak
25 directly to people who have knowledge of these

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1 programs and who are directly affected by the
2 provision of the Fair Labor Standards Act allowing
3 the payment of subminimum wages to people with
4 disabilities.

5 As detailed in my proposal, I think it
6 is very important for the Commission to gain an
7 understanding of an example of the 14(c) program as
8 currently operating, and also to visit a state
9 where they employ a different model.

10 I proposed Vermont as a state because
11 of their long history of implementing disability
12 employment services without the use of 14(c)
13 certificates.

14 So a few states have gone down this
15 road. Vermont will be able to offer us the most
16 information about the transformation over many
17 years as they have the longest history.

18 We will gain more information about
19 change on a system level by visiting a state that
20 has transformed their entire system than from
21 individual providers who have discontinued 14(c) on
22 their own.

23 The travel efficiency is also a place
24 relatively close to the Commission headquarters, as
25 is the Virginia site that OCRE is working to

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1 select.

2 The proposal also examines mechanisms
3 we will employ to capture information on this site
4 visit for incorporation into our report. Through
5 the use of a court reporter, along with note taking
6 and possible audio recording, we will develop a
7 record that we can use in our analysis of this
8 program and the civil rights implications.

9 With those points made, I open the
10 floor for discussion.

11 COMMISSIONER ADEGBILE: Commissioner
12 Adegbile here. Thank you, Commissioner Kladney. It
13 seems like a reasonable plan and a way to further
14 inform us by virtue of seeing the way some of these
15 facilities operate in practice, and I think it's
16 also helpful that we're doing it in a way that is
17 endeavoring to be efficient and take accounts of
18 the resources that we are planning to invest in it.

19 COMMISSIONER KLADNEY: Thank you,
20 Commissioner Adegbile. Commissioner Heriot, do you
21 have anything to add?

22 COMMISSIONER HERIOT: What I wanted to
23 talk about was the timing of all of this. I am not
24 going to be able to be on the east coast the last
25 week of February, which is one of the options that

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1 is given there.

2 However, the University of San Diego
3 School of Law is on spring break for the first week
4 of March, and so that would be my strong preference
5 for scheduling this as early in that week as
6 possible since I need to grade midterms during that
7 week, and so I would like to be able to crush this
8 in as short amount of time as possible.

9 COMMISSIONER KLADNEY: Perhaps one of
10 the ideas I had -- and we spoke, Commissioner
11 Heriot and I. One of the ideas I had is perhaps we
12 can ask the Commission, the Commission chair maybe,
13 to move its March meeting, its February meeting on
14 February 28 to March 2, and --

15 COMMISSIONER HERIOT: I have no problem
16 with that, yes.

17 COMMISSIONER KLADNEY: Okay, then we
18 could proceed forthwith after that to go see the
19 Virginia site, the Vermont site, and that would be
20 our work. We would be done hopefully by Wednesday.

21 So, would the subcommittee,
22 Commissioner Adegbile, would you have a problem
23 with that if I asked the Commission Chair about
24 that move?

25 COMMISSIONER ADEGBILE: That looks

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1 clear on my calendar. The plan would be to have
2 the meeting March 2, and then what other work would
3 happen around that, those days?

4 COMMISSIONER KLADNEY: We would go see,
5 hopefully -- hopefully there wouldn't be much to do
6 at the March 2 meeting, and we could go to Virginia
7 that day to see the work center.

8 We're trying to find a CRP there that's
9 adequate and I've been in discussions with several
10 people regarding which ones they think are good
11 people who are advocates as well as staff, and then
12 the next day, go up to Vermont and get there in the
13 morning and hopefully see everything, and then
14 finish up and go home that night on Tuesday, or
15 Wednesday, oh, Tuesday. I'm sorry. We're trying
16 to squeeze it into two days.

17 COMMISSIONER ADEGBILE: Yeah, that
18 looks like it could work for me.

19 COMMISSIONER KLADNEY: Okay, also I
20 guess, well, let's take a vote then on the motion
21 if there's nothing else to discuss on that.

22 Although, in discussions with
23 Commissioner Heriot, she has been invited by some
24 CRPs or a CRP group to see other facilities, and
25 she was interested in effectuating that although

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1 whatever is seen there will not be captured for
2 purposes of the report, and I was wondering how
3 everybody felt about that.

4 COMMISSIONER HERIOT: I have to go to
5 one of these facilities here on the west coast with
6 you, Dave, and, you know, if you can make it, but
7 as far as whether I go by myself if you can't make
8 it, I don't think there is anything that the
9 subcommittee has to say about that.

10 COMMISSIONER KLADNEY: Oh, no, I don't
11 either. I just wanted to let people know that
12 that's occurring if that's okay. And then, so,
13 okay, so let's see if the -- take a vote --

14 COMMISSIONER ADEGBILE: Sorry, David,
15 can I just interject?

16 COMMISSIONER KLADNEY: Commissioner
17 Adegbile, how do you vote?

18 COMMISSIONER ADEGBILE: Yes, sorry,
19 before we call the vote, I just wanted to note that
20 I, too, have been invited by a local facility to
21 visit their facility and have been in communication
22 with them to notify them that the Commission was
23 trying to determine a process about how to proceed
24 with respect to all of this. You know, I take
25 today's vote to be in furtherance of that

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1 objective.

2 I have not yet determined whether I
3 will go separately to see the local facility in
4 Long Island, I believe it is, but I may. I may be
5 able to make time to go see that one as well, so
6 it's kind of an east coast version of what Gail has
7 described.

8 COMMISSIONER KLADNEY: Right, so I just
9 thought I'd mention that to let everybody know that
10 has occurred, and like I said, how do you vote,
11 Commissioner Adegbile?

12 COMMISSIONER ADEGBILE: Aye.

13 COMMISSIONER KLADNEY: Commissioner
14 Heriot?

15 COMMISSIONER HERIOT: I vote yes.

16 COMMISSIONER KLADNEY: And I vote yes,
17 so the motion passes, three Commissioners in favor,
18 none opposed, none abstained.

19 **III. ADJOURN MEETING**

20 This concludes the business of our
21 subcommittee meeting today. If there is nothing
22 further, I would adjourn the meeting at, oh, my
23 gosh, 9:14, sorry, 12:14 eastern time. Anybody
24 have anything else?

25 (Simultaneous speaking.)

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1 COMMISSIONER ADEGBILE: Happy holidays.

2 COMMISSIONER HERIOT: Very efficient,
3 chair, then, great.

4 COMMISSIONER KLADNEY: Okay, thank you
5 very much.

6 COMMISSIONER ADEGBILE: Happy holidays.

7 COMMISSIONER HERIOT: Happy holidays to
8 everybody.

9 COMMISSIONER KLADNEY: Yes, absolutely,
10 and be safe. Bye-bye. Thank you.

11 OPERATOR: Thank you, ladies and
12 gentlemen. This concludes the teleconference. You
13 may now disconnect.

14 (Whereupon, the above-entitled matter
15 went off the record at 12:14 p.m.)

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