

REGULAR MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION

APPEALS

Friday, November 18, 2022
9:00 a.m.
Commission En Banc Courtroom
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

AGENDA

CALL TO ORDER **Commission's Chair, Chairman Russell**
ROLL CALL **Presiding Appellate Officer, Commissioner Tilly**
BUSINESS **Presiding Appellate Officer, Commissioner Tilly**

STATEMENT OF COMPLIANCE BY CHAIRMAN

THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION

A. MINUTES:

- The drafted Minutes of the Special Appeals Meeting of October 28, 2022 will be considered for approval.

B. Appeal Hearings before the Commission En Banc from Orders Issued by the Commission's Administrative Law Judges

The hearings before the Commission en banc will be conducted pursuant to the authority and jurisdiction of the Administrative Workers' Compensation Act, Title 85A O.S. § 1 et seq., and the Workers' Compensation Commission's Permanent Rules, OAC 810. The Commissioners may recess for lunch.

The procedure for the hearings before the Commission en banc is as follows:

- Each side will be allowed ten (10) minutes for oral arguments.
- The appellant will present first. Appellant may divide his or her ten minutes for argument, allowing a portion of that time for rebuttal.
- Both parties are subject to questioning by Commissioners.

1. **Allan Hare v. MITF, File #CM3F-2019-04761J**

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Ray Lahann is the attorney of record for the Claimant and Stefan Wenzel is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

2. **Trent Grimes v. Oklahoma Forensic Center and the State of Oklahoma, File #CM3-2021-02433Q**

Claimant filed an appeal from the order issued by Administrative Law Judge Lawyer. Robert A. Flynn is the attorney of record for the Claimant and J. Nick Crews is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

3. **Andrew Johnson v. DFW Security Protective Force and Zurich American Insurance Co., File #CM3-2021-01940Q**

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. Joseph C. Biscone II is attorney of record for the Claimant and J. William Archibald is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

4. **Donnie Back v. City of Tulsa (OWN RISK #10435), File #CM3-2020-05794R**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Robert A. Flynn is the attorney of record for the Claimant and Jordan S. Ensley is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

5. Jacky Wilkett Jr. v. A&A Tank Truck Co. Inc. and Starr Indemnity & Liability Co., File #CM3-2019-01323A

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Bryce A. Hill is the attorney of record for the Claimant and Daniel K. Zorn is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

6. James Crittenden Jr. v. MITE, File #CM3F-2019-07602A

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. McCaffrey & Associates are the attorneys of record for the Claimant and Michael A. Fagan is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

C. Commission Consideration of Adoption of Final Order in the Following Cases:

1. Raymond Miller v. La Quinta Inn, Global Core Stillwater LLC, and Employers Preferred Insurance Co. (FKA AMCOMP PREFERRED), File #CM3-2020-00616F

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Michael R. Green appeared for the Claimant and Kelley Bodell appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

2. **Wanda Gibby v. MITF, File #CM3F-2019-07638F**

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. J. Kord Hammert appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

3. **Joseph Handley v. Nationwide Fixture Installation Inc. and Hanover American Insurance Co., File #CM3-2019-00808J**

Both parties filed an appeal from the order issued by Administrative Law Judge Egan. Darrel Paul appeared for the Claimant and Rose M. Sloan appeared for the Respondent.

This case came on for Oral Argument on June 24, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commissioner Biggs moved to take preliminary action to affirm in-part, in regards to consequential injury, and remand in-part, in regards to intervening accident, and remand back for determination of medical treatment and instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

4. Donnie Deramus v. City of Tulsa (OWN RISK #10435), File #CM3-2019-03320J

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan H. Jones appeared for the Claimant and Travis R. Colt appeared for the Respondent.

This case came on for Oral Argument on June 24, 2022. After reviewing the record, hearing oral argument of counsel and deliberating, Chairman Russell moved deny motion to accept supplemental brief by Respondent and to take preliminary action to strike the language in paragraph 4 of the Findings and Conclusions beginning at, "That this award is not dispositive of claimant's rights to participates in the grievance process attendant to said rights," and authorized the Commission's Chairman to sign and file order on behalf of the Commission by Commission's clerk.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

5. Norma Chavez v. Lopez Foods Inc. (OWN RISK), File #CM3A-2017-07276R

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. W. Wicker and James G. Devinney appeared for the Claimant. Norman Lemonik appeared for the Respondent.

This case came on for Oral Argument on August 26, 2022. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to affirm the decision of the Administrative Law Judge's Order and instructed the law clerk or other staff member to draft a proposed order with finding of facts and conclusions of law, to be considered for continued action at a future meeting.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

6. Robert Page v. City of Tulsa (OWN RISK #10435), File #CM3-2020-06114Y

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Micah Felton appeared for the Claimant and Cyrus Nathaniel Lawyer appeared record for the Respondent.

This case came on for Oral Argument on September 16, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

7. **Nancy Gonzalez-Rubio v. Pacific Painting Co. Inc. and Continental National Indemnity Co., File #CM3A-2019-04881X**

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Milly Daniels appeared for the Claimant and Nicole S. Bryant appeared for the Respondent.

This case came on for Oral Argument on September 16, 2022. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to take preliminary action to vacate and remand the decision of the Administrative Law Judge's Order and instructed the law clerk or other staff member to draft a proposed order with finding of facts and conclusions of law, to be considered for continued action at a future meeting.

8. **Guy Stapleton v. City of Tulsa (OWN RISK #10435), File #CM3-2017-01626A**

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan H. Jones is the attorney of record for the Claimant and Travis R. Colt is the attorney of record for the Respondent.

This case came on for Oral Argument on October 28, 2022. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to take preliminary action to strike everything except the first sentence of section 4 of the Findings and Conclusions so that it may read, "That respondent is awarded a Section 89 credit in the amount of \$4,693.23," and affirm the rest of the order.

9. **David Inglee v. City of Tulsa (OWN RISK #10435), File # CM3-2019-03746A**

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Harlan Pinkerton Jr. appeared for the Claimant and Travis R. Colt appeared for the Respondent.

This case came on for Oral Argument on October 28, 2022. After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to take preliminary action to remand the action to the Administrative Law Judge for a determination of permanent disability either in Class 1 or Class 4.

ADJOURNMENT.....Presiding Appellate Officer, Commissioner Tilly