

REGULAR MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION

APPEALS

Friday, September 18, 2020

9:00 a.m.

Commission Chambers

1915 N. Stiles Ave.

Oklahoma City, Oklahoma

www.wcc.ok.gov

[Interim Guidance on Commission Appellate Proceedings](#)

AGENDA

CALL TO ORDERPresiding Appellate Officer, Chairman Liotta

ROLL CALLPresiding Appellate Officer, Chairman Liotta

BUSINESSPresiding Appellate Officer, Chairman Liotta

STATEMENT OF COMPLIANCE BY CHAIRMAN

Due to the COVID-19 outbreak, the meeting will be conducted in accordance with the Interim Guidance on Commission Appellate Proceedings issued by the Commission on June 30, 2020, and in compliance with the Oklahoma Open Meeting Act, as amended by SB 661. The Commissioners may recess for lunch.

Chairman Liotta will appear in person on the 2nd Floor En Banc Courtroom.
Commissioner Tilly will appear in person on the 2nd Floor En Banc Courtroom.
Commissioner Russell will appear remotely via Zoom teleconference.

A. MINUTES:

- The drafted Minutes of the Regular Appeals Meeting of August 21, 2020, will be considered for approval.

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

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. Jonathan Miller v. ABM Industries Inc. and Indemnity Insurance Co. of North America, File #CM2018-05238L

Claimant filed an appeal from the order issued by Administrative Law Judge Lawyer. Craig R. Armstrong is the attorney of record for the Claimant and H. Grady Parker Jr. 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. Patricia Storey v. Multiple Injury Trust Fund, File #CM2018-05434HMIF

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Herbert E. Elias Jr. is the attorney of record for the Claimant and Richard Cole is the attorney of record for 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. Kathleen Whitehead v. City of Tulsa (OWN RISK #10435), File #CM2017-08076R

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. J. Stephen McClellan, Arthur H. Adams, and Bret A. Unterschuetz are the attorneys of record for the Claimant. Nicholas E. Moorad II 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. Annette Cooper v. Multiple Injury Trust Fund, File #CM2015-07562FMIF

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Susan H. Jones is the attorney of record for the Claimant. Richard Cole 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. Patricia Morgan v. Regis Corp. and Sentinel Insurance Co. Ltd., File #CM2019-02966X

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Eric W. Quant is the attorney of record for the Claimant and Donald A. Bullard is the attorney of record for 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. Narciso (Pachecano) Ochoa v. Greenleaf Nursery Co. Inc. and American Casualty Co. of Reading PA, File #CM2019-02108F

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Brian R. Berry is the attorney of record for the Claimant and Kevin D. Berry is the attorney of record for 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. Glenn Stonebridge v. American Airlines Inc. and New Hampshire Insurance Co., File #CM2018-00189L

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Pam Cornett represented the Claimant. Lee Endicott represented for Respondent.

This case came on for Oral Argument on February 21, 2020. 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, adopting an order as proposed or as modified at the hearing, or continuing the matter.

2. Diana Burbank v. Tropical Plant Design Inc. and Compsource Mutual Ins. Co. (FKA Compsource Oklahoma), File #CM2017-01135Q

Claimant and Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Edward Grimes appeared for the Claimant and Cynthia J. Braly appeared for the Respondent.

This case came on for Oral Argument on June 19, 2020. 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, adopting an order as proposed or as modified at the hearing, or continuing the matter.

3. Selene Castro v. Cameron International Corp. and Travelers Indemnity Co. of America, File #CM2019-00763Y

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. James G. Devinney appeared for the Claimant. Steven K. Bunting appeared for the Respondent.

This case came on for Oral Argument on June 19, 2020. 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, adopting an order as proposed or as modified at the hearing, or continuing the matter.

4. Bennie Herring v. City of Tulsa and Tulsa Fire Department (OWN RISK #10435), File #CM2016-05263A

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

This case came on for Oral Argument on June 19, 2020. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took preliminary action to affirm the decision of the Administrative Law Judge and instructed Appellate Counsel or other staff member to draft a proposed order to be considered at a future meeting.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

5. Gail Ross v. Multiple Injury Trust Fund, File #CM2015-03929AMIF

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Laura Beth Murphy appeared for the Claimant and Jon Derouen appeared for the Respondent.

This case came on for Oral Argument on June 19, 2020. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took preliminary action to reverse the Administrative Law Judge's order and instructed Appellate Counsel or other staff member to draft a proposed order to be considered at a future meeting.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

6. Clarence Shinault v. Multiple Injury Trust Fund, File #CM2016-06670HMIF

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Cynthia D'Antonio appeared for the Claimant and Jennifer Finley appeared for the Respondent.

This case came on for Oral Argument on July 31, 2020. After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to take preliminary action to affirm the Administrative Law Judge's Order and instruct Appellate Counsel or other staff member to draft a proposed order to be considered at a future meeting.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

7. **Katina Dieng v. Great Plains Coca Cola Bottling Co. (OWN RISK #17344), File #CM2016-03606K**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Claimant is represented herself pro se. Katherine Lee appeared for the Respondent.

This case came on for Oral Argument on August 21, 2020. 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, adopting an order as proposed or as modified at the hearing, or continuing the matter.

8. **Jay Wiley v. Michelin North (OWN RISK), File #CM2018-06581R**

Respondent filed an appeal from the order issued by Administrative Law Judge Curtin. John R. Colbert appeared for the Claimant. Connie M. Wolfe appeared for the Respondent.

This case came on for Oral Argument on August 21, 2020. 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, adopting an order as proposed or as modified at the hearing, or continuing the matter.

9. **Douglas W. Barnes v. Precision Components Co. LLC, Chubb Indemnity Insurance Co., File #CM2015-06581R**

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Jack G. Zurawik is the attorney of record for the Claimant and Malcolm Smith is the attorney of record for the Respondent.

The parties submitted a proposed order vacating the ALJ's decision and remanding for further proceedings. The proposed order has been circulated to the Commissioners for consideration of approval.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

D. Announcements

The Commission's next regular business meeting is scheduled for Thursday, October 15, 2020. The Commission's next regular appeals meeting is scheduled for Friday, October 16, 2020 at 9:00 a.m.

ADJOURNMENT.....Presiding Appellate Officer, Chairman Liotta