

# 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](http://www.wcc.ok.gov)

[Interim Guidance on Commission Appellate Proceedings](#)

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### MINUTES

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Members present: Chairman Mark Liotta, Commissioner Jordan Russell, and Commissioner Megan Tilly.

Staff present to support the Commission: Lindsey Christopher, Alexander Watkins, and Monica Pack.

#### **STATEMENT OF OKLAHOMA OPEN MEETING LAW COMPLIANCE**

Chairman Liotta stated the administrative meeting was being held in compliance with the Open Meetings Act.

This meeting is also being conducted under the new emergency provisions of the Open Meeting Act, as amended by SB 661 on Wednesday, March 18, 2020.

**CALL TO ORDER.....Presiding Appellate Officer, Chairman Liotta**

Call to order 9:00 a.m. by Chairman Liotta, Presiding Appellate Officer.

**ROLL CALL.....Presiding Appellate Officer, Chairman Liotta**

After the roll call was taken, Chairman Liotta announced the presence of a Quorum.

#### **A. MINUTES:**

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

**Motion:** Commissioner Tilly made a motion to approve the Regular Appeals Meeting of August 21, 2020, minutes.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: MINUTES APPROVED**

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

**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 appeared for the Claimant and H. Grady Parker appeared for the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

**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. appeared for the Claimant and Travis Colt appeared for Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Tilly.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

**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. Christian Henry appeared for the Claimant. Nicholas E. Moorad II appeared for the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Russell moved to affirm the Administrative Law Judge's order and

authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Tilly.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

**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 appeared for the Claimant. Travis Colt appeared for the Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Tilly.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

**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 appeared for the Claimant and Lee Endicott appeared for Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Tilly.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

**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 appeared for the Claimant and Kevin D. Berry appeared for Respondent.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Tilly.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

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

1. **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 with modifications as stipulated by the parties.

*Motion:* Commissioner Tilly moved to approve the order as previously circulated.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ORDER APPROVED**

2. **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.

*Motion:* After reviewing the record, hearing oral arguments, and deliberating, Commissioner Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

*Second:* Commissioner Tilly.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALJ ORDER AFFIRMED**

**3. 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.

***Motion:*** After reviewing the record, hearing oral arguments, and deliberating, Commissioner Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

***Second:*** Commissioner Tilly.

***Those Voting Aye:*** Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**4. 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.

***Motion:*** Commissioner Tilly moved to approve the order as previously circulated.

***Second:*** Commissioner Russell.

***Those Voting Aye:*** Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ORDER APPROVED**

**5. 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.

*Motion:* Commissioner Tilly moved to continue all remaining orders.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALL REMAINING ORDERS CONTINUED**

**6. 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.

*Motion:* Commissioner Tilly moved to continue all remaining orders.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALL REMAINING ORDERS CONTINUED**

**7. 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.

*Motion:* Commissioner Tilly moved to continue all remaining orders.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALL REMAINING ORDERS CONTINUED**

**8. 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.

*Motion:* Commissioner Tilly moved to continue all remaining orders.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALL REMAINING ORDERS CONTINUED**

**9. 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.

*Motion:* Commissioner Tilly moved to continue all remaining orders.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: ALL REMAINING ORDERS CONTINUED**

**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**

*Motion:* Commissioner Tilly moved to adjourn the meeting at approximately 1:00 p.m.

*Second:* Commissioner Russell.

*Those Voting Aye:* Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

**THE MOTION CARRIED: THE MEETING WAS ADJOURNED.**