

SPECIAL MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION

~ APPEALS ~

Friday October 16, 2015
9:00 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Bob Gilliland, Commissioner LeRoy Young, Commissioner Mark Liotta and Special Commissioner Neal Leader.

Staff present to support the Commission: Lindsey Christopher and Dana Esparza.

CALL TO ORDER Presiding Appellate Officer, Chairman Gilliland

Call to order 9:13 a.m. by Chairman Gilliland, Presiding Appellate Officer.

ROLL CALL Presiding Appellate Officer, Chairman Gilliland

After the roll call was taken, Chairman Gilliland announced the presence of a Quorum and the Statement of Compliance with the Open Meeting Act was read.

NOTICE OF COMPLIANCE..... Dana Esparza

STATEMENT OF OKLAHOMA OPEN MEETING LAW
COMPLIANCE

Notice of this Special Meeting was filed with the Secretary of State's office on Tuesday, September 15, 2015 at 8:08 a.m., in compliance with the Open Meeting Act.

The Agenda was posted at 8:25 a.m. on Thursday, October 15, 2015, more than 24 hours in advance of the meeting, in compliance with the Open Meeting Act. It was posted at 1915 North Stiles, the Commission's principal office.

**Mark A. Caron v. Asplundh Tree Expert Co. & Mutual Insurance Co.
File #CM2015-01147R**

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

Claimant's attorney filed a Motion to Continue on this case on October 13, 2015. The Commission granted the Motion on October 15, 2015.

Kimberly Jackson v. Remeo Danais, Raleigh Square Apartments & CompSource Mutual Ins. Co. File #CM2014-10757A

Special Commissioner Neal Leader sat on the panel instead of Commissioner LeRoy Young. Dr. Young recused in this case.

Respondent filed an appeal from the order issued by Administrative Law Judge Sommer. Mark Litton represented the Claimant and Warren E. Mouledoux, III represented the Respondent.

Motion: After hearing the oral argument of counsel, Special Commissioner Leader moved to affirm the Order and issue an order with a finding that the post-trial evidentiary ruling of the Administrative Law Judge was not an abuse of discretion, as it was proper to admit the Brooks Clinic records and exclude the other records, which were discoverable prior to the hearing.

Second: Commissioner Liotta

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Liotta and Special Commissioner Neal Leader

THE MOTION CARRIED: ALJ ORDER AFFIRMED

**Commission Consideration of Adoption of Final Order in the
Following Case:**

**Olivia Heim v. Westhaven Nursing Home & Great American Alliance
Ins. Co. File #CM2014-08318Q**

Special Commissioner Neal Leader will sit on the panel instead of Commissioner LeRoy Young. Dr. Young has recused in this case.

At the September 11, 2015 Special Meeting, the Commission heard the oral arguments in this case and voted to affirm the Administrative Law Judge's decision and issue an order with a finding that the Claimant failed to overcome the presumption of constitutionality of Title 85A,

Section 56. On September 14, 2015, the Commission issued an Order Affirming Decision of Administrative Law Judge that did not include the finding of constitutionality. The Commission will consider final action and adoption of a drafted Order Nunc Pro Tunc to add the omitted finding of constitutionality to the Commission's Order issued on September 14, 2015.

This matter has been appealed to the Oklahoma Supreme Court and the Commission no longer has jurisdiction to change the order.

MINUTES:

- The portion of the drafted Minutes of the Special Meeting of September 11, 2015 relating to Olivia Heim v. Westhaven Nursing Home & Dallas Suits v. Transformers Disposal was considered for approval.

Presiding Appellate Officer Chairman Gilliland presented that portion of the minutes of the September 11, 2015 special meeting for approval.

Motion: Presiding Appellate Officer Chairman Gilliland made a motion to approve that portion of the minutes of the September 11, 2015 special meeting.

Second: Special Commissioner Leader

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Liotta and Special Commissioner Leader.

THE MOTION CARRIED: MINUTES APPROVED

Edith Butler v. Tulsa Transit Lift & Indemnity Insurance Co. of North America File #CM2014-09512K

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Tim Kent represented the Claimant and Lee Endicott represented the Respondent.

Motion: After hearing the oral argument of counsel, Commissioner Liotta moved to affirm the Administrative Law Judge's Order and authorize the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Young

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta

THE MOTION CARRIED: ALJ ORDER AFFIRMED

**Chazdon McIntyre v. Phillips & Sons Trucking LLC & HDI Gerling
America Insurance Co., File #CM2015-04340H**

Claimant filed an appeal from the order issued by Administrative Law Judge Sommer. Ryan Polchinski represented the Claimant and Thad M. Groom represented the Respondent.

Motion: After hearing the oral argument of counsel, Commissioner Liotta moved to affirm the Administrative Law Judge's Order and authorize the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Young

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta

THE MOTION CARRIED: ALJ ORDER AFFIRMED

MINUTES:

- The remaining portion of the drafted Minutes of the Special Meeting of September 11, 2015 was considered for approval.

Presiding Appellate Officer Chairman Gilliland presented the remaining portion of the minutes of the September 11, 2015 special meeting for approval.

Motion: Commissioner Young made a motion to approve the remaining portion of the minutes of the September 11, 2015 special meeting.

Second: Commissioner Liotta

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta.

THE MOTION CARRIED: MINUTES APPROVED

Announcements:

Commission's next regularly scheduled meeting is Thursday, November 12, 2015. Commission's next Special Meeting regarding Appeals is scheduled for Friday November 13, 2015.

ADJOURNMENT

Motion: Presiding Appellate Officer Chairman Gilliland moved to adjourn the meeting at approximately 11:13 a.m.

Second: Commissioner Liotta

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland,
Commissioner Young and Commissioner Liotta

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.