

**SPECIAL MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION**

APPEALS

Friday, January 5, 2024
10:00 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

This meeting included a videoconference location in compliance with 25 O.S. § 307.1:

*115 McElroy Hall, CVM Alumni Conference Room
208 S. McFarland, Stillwater, OK 74078
(405)-744-6651*

Commissioner Scott Biggs appeared physically presented and participated in the meeting from the videoconference location. Chairman Russell and Commissioner Tilly appeared physically presented and participated in the meeting from the Oklahoma City location.

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 December 6, 2023 will be considered for approval.

Motion: Commissioner Tilly made a motion to approve the Special Appeals Meeting of December 6, 2023, minutes.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: MINUTES APPROVED

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

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.

This case came on for Oral Argument on November 18, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

The Commission considered the adoption of the following order in the above referenced case:

This matter comes before the Commission on its *sua sponte* inquiry to determine the need for a stay of appellate proceedings. The instant case involves the same jurisdictional issue raised by the Multiple Injury Trust Fund in *Stricklen v. Multiple Injury Trust Fund*, No. 120,753, which is pending certiorari review by the Oklahoma Supreme Court. In the interest of judicial economy, the Commission finds a stay of appellate proceedings is necessary. It is therefore **ORDERED** that Petitioner's appeal is hereby **STAYED** pending final resolution in *Stricklen* or until further order of the Commission.

Motion: Commissioner Tilly moved to approve a stay of this case pending a resolution in *Stricklen v. Multiple Injury Trust Fund*, No. 120,753.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

2. James Crittenden Jr. v. MITF, 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.

This case came on for Oral Argument on November 18, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

The Commission considered the adoption of the following order in the above referenced case:

This matter comes before the Commission on its *sua sponte* inquiry to determine the need for a stay of appellate proceedings. The instant case involves the same jurisdictional issue raised by the Multiple Injury Trust Fund in *Stricklen v. Multiple Injury Trust Fund*, No. 120,753, which is pending certiorari review by the Oklahoma Supreme Court. In the interest of judicial economy, the Commission finds a stay of appellate proceedings is

necessary. It is therefore **ORDERED** that Petitioner's appeal is hereby **STAYED** pending final resolution in *Stricklen* or until further order of the Commission.

Motion: Commissioner Tilly moved to approve a stay of this case pending a resolution in *Stricklen v. Multiple Injury Trust Fund*, No. 120,753.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

3. **James Randy Westlake v. MITF, File #CM3F-2022-01067X**

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Ray Lahann 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 March 17, 2023. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

The Commission considered the adoption of the following order in the above referenced case:

This matter comes before the Commission on its *sua sponte* inquiry to determine the need for a stay of appellate proceedings. The instant case involves the same jurisdictional issue raised by the Multiple Injury Trust Fund in *Stricklen v. Multiple Injury Trust Fund*, No. 120,753, which is pending certiorari review by the Oklahoma Supreme Court. In the interest of judicial economy, the Commission finds a stay of appellate proceedings is necessary. It is therefore **ORDERED** that Petitioner's appeal is hereby **STAYED** pending final resolution in *Stricklen* or until further order of the Commission.

Motion: Commissioner Tilly moved to approve a stay of this case pending a resolution in *Stricklen v. Multiple Injury Trust Fund*, No. 120,753.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

4. **Jerry Green v. MITF, File #CM3F-2015-07692A**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan Jones appeared for the Claimant and Jordan S. Ensley appeared for the Respondent.

This case came on for Oral Argument on April 21, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to affirm the Administrative Law Judge's order and issue a supplemental order at a future date.

Motion: Chairman Russell moved to continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

5. Virgil Breeze v. Premium Transportation Group Inc. and XL Insurance America Inc., File #CM3-2021-06787E

Both parties filed an appeal from the order issued by Administrative Law Judge Inhofe. Daniel J. Talbot appeared for the Claimant and R. Jay McAtee appeared for the Respondent.

This case came on for Oral Argument on April 21, 2023. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Chairman Russell moved to continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

6. Fernando Colunga v. MITE, File #CM3F-2015-01300K

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Michael R. Green appeared for the Claimant and Jordan S. Ensley appeared for the Respondent.

This case came on for Oral Argument on May 19, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take this case under advisement.

Motion: Chairman Russell moved to continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

7. Travis Oakes v. City of Stillwater, File #CM3-2022-07536Y

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Daniel J. Talbot appeared for the Claimant and John D. Valentine appeared for the Respondent.

This case came on for Oral Argument on July 21, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to reverse the denial of Respondent's motion to terminate TTD.

Motion: Chairman Russell moved to continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

8. James Brock v. Starlight Express LLC and Compsource Mutual Ins. Co. (FKA COMPSOURCE OKLAHOMA), File #CM3-2021-04119R

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

This case came on for Oral Argument on September 22, 2023. After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to preliminary action to reverse the order sustaining Respondent's request for dismissal of certain body parts and authorize the Commission's appellate counsel or other staff member to draft a proposed order findings and facts and conclusion of law to be considered for continued action at a future meeting.

Motion: Chairman Russell moved to continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

9. Jimmy Mills v. Gary A. Crain Inc. and Imperium Insurance Co., File #CM3-2020-00795Q

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Daniel J. Talbot appeared for the Claimant and R. Jay McAtee appeared for the Respondent.

This case came on for Oral Argument on September 22, 2023. After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to take this case under advisement.

Motion: Chairman Russell moved to continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

10. Richard Carmichael v. G.T. Bynum Co. LLC and Old Glory Insurance Co., File #CM3-2022-00963T

Claimant filed an appeal from the order issued by Administrative Law Judge Lawyer. Bret Unterschuetz appeared for the Claimant and David Custar appeared for the Respondent.

This case came on for Oral Argument on September 22, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to reverse the denial of TTD, remand the case back to the ALJ, and issue an order at a later date.

Motion: Chairman Russell moved to approve the order with the suggested edits.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

11. Kevin Power v. Flow Testing Inc. and Compsource Mutual Ins. Co. (FKA COMPSOURCE OKLAHOMA), File #CM3-2020-02016R

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. J. Kord Hammert appeared for the Claimant and David J. Frette appeared for the Respondent.

This case came on for Oral Argument on September 22, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take this case under advisement.

Motion: Chairman Russell moved to continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

12. Prince Felder III v. Anheuser-Busch LLC and Indemnity Ins. Co. of North America (INA INS) (CT GEN), File #CM3-2021-06399R

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Ray Lahann is the attorney of record for the Claimant and Laurie D. Judy is the attorney of record for the Respondent.

This case came on for Oral Argument on September 22, 2023. Commissioner Biggs moved to take preliminary action to vacate the denial and remand back to the ALJ for the submission of further evidence as requested by the CIME in his report.

Motion: Chairman Russell moved to continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

13. Rachel Fritz v. City of Tulsa (OWN RISK #10435), File #CM3-2019-06216R

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Anthony Blair appeared for the Claimant and Jordan S. Ensley appeared for the Respondent.

This case came on for Oral Argument on December 1, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to take preliminary action to reverse the Administrative Law Judge's order on the TTD issue.

Motion: Chairman Russell moved to continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

ADJOURNMENT

Motion: Commissioner Biggs moved to adjourn the meeting at approximately 10:15 a.m.

Second: Commissioner Tilly.

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: MEETING ADJOURNED.